

STANDING COMMITTEE REPORTS

SCRep. 1-86 Human Services on H.B. No. 1679-86

The purpose of this bill is to establish a voluntary workfare program for public assistance recipients under the Department of Social Services and Housing.

H.B. No. 1679-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Without the amendment providing the substantive contents, members of the public hearing cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1679-86, as amended herein, and recommends that it be recommitted to the Committee on Human Services, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1679-86, H.D.1.

Signed by all members of the Committee except Representative Cavasso.

SCRep. 2-86 Water, Land Use, Development and Hawaiian Affairs and Housing on H.R. No. 8

The purpose of this resolution is to request the Department of Land and Natural Resources and the Hawaii Housing Authority to conclude the equal value transfer of lands now under the Department of Land and Natural Resources which are more suitable for housing to the Hawaii Housing Authority in exchange for those lands in Waiahole Valley currently held by the Hawaii Housing Authority, prior to the conclusion of the 1986 legislative session. The resolution also requests the Department of Land and Natural Resources to complete identification of lands currently classified as agricultural, but which are more suitable and appropriate for residential development by the first week of February 1986.

Your Committees find that this exchange is mutually beneficial and agreeable and that the time frame of the first week of February can be met by the Department of Land and Natural Resources in view of the time elapsed since the acquisition of land in 1977.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Housing concur with the intent and purpose of H.R. No. 8, and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Shito, Tajiri and Cavasso.

SCRep. 3-86 Water, Land Use, Development and Hawaiian Affairs and Housing on H.C.R. No. 7

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources and the Hawaii Housing Authority to conclude the equal value transfer of lands now under the Department of Land and Natural Resources which are more suitable for housing to the Hawaii Housing Authority in exchange for those lands in Waiahole Valley currently held by the Hawaii Housing Authority, prior to the conclusion of the 1986 legislative session. The concurrent resolution also requests the Department of Land and Natural Resources to complete identification of lands currently classified as agricultural, but which are more suitable and appropriate for residential development by the first week of February 1986.

Your Committees find that this exchange is mutually beneficial and agreeable and that the time frame of the first week of February can be met by the Department of Land and Natural Resources in view of the time elapsed since the acquisition of land in 1977.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and

Housing concur with the intent and purpose of H.C.R. No. 7, and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Shito, Tajiri and Cavasso.

SCRep. 4-86 Human Services and Judiciary on H.B. No. 1681-86

The purpose of this bill is to provide for an expedited process for modifying support and enforcing visitation rights in cases of divorce, separation and annulment.

H.B. No. 1681-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Without the amendment providing the substantive contents, members of the public hearing cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 1681-86, as amended herein, and recommend that it be recommitted to the Committees on Human Services and Judiciary, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1681-86, H.D.1.

Signed by all members of the Committees except Representatives Andrews, Hashimoto, Cavasso and Jones.

SCRep. 5-86 Finance on H.B. No. 1779-86

The purpose of this bill is to authorize funds for the expenses of the Legislature up to June 30, 1987, and also for the expenses of the Legislative support agencies during the 1986-87 fiscal year.

After due consideration of the needs of the Legislature and the Legislative support agencies, your Committee has amended the bill to provide specific appropriations as follows:

SENATE AND HOUSE OF REPRESENTATIVES

The amount appropriated for the Senate is \$2,475,524 and the amount appropriated to the House of Representatives is \$3,213,695. Your Committee finds that the amounts are necessary to meet operating costs of the Legislature covering such items as equipment, supplies, staff services and other fundamental expenses.

LEGISLATIVE AUDITOR

Your Committee approves the appropriation of \$1,589,000 to meet the basic operating budget of the Office of the Legislative Auditor. The amount includes funds for special studies and other purposes to be jointly determined by the Speaker of the House of Representatives and the President of the Senate.

STATE ETHICS COMMISSION

Your Committee approves the appropriation of \$277,549 to the State Ethics Commission. This appropriation represents a \$91,973 increase over the amount approved for the Commission's budget for fiscal year 1985-86. This increase is due primarily to the Commission's need for adequate office space and for an additional staff attorney.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves the appropriation of \$1,353,491 for the Legislative Reference Bureau. The total includes \$25,000 to be utilized as initial seed money for the 1987 Western Legislative Conference of the Council of State Governments to be held in Hawaii.

OMBUDSMAN

Your Committee approves the appropriation of \$390,400 for the Office of the Ombudsman.

LAPSE OF FUNDS

Appropriations under this bill are subject to lapse as of June 30, 1987.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1779-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1779-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakata.

SCRep. 6-86 Finance on H.R. No. 8

The purpose of this resolution is to request the department of land and natural resources and the hawaii housing authority to conclude the equal value transfer of lands now under the department of land and natural resources which are more suitable for housing to the hawaii housing authority in exchange for those lands in Waiahole Valley currently held by the hawaii housing authority, prior to the conclusion of the 1986 legislative session. The resolution also requests the department of land and natural resources to complete identification of lands currently classified as agricultural, but which are more suitable and appropriate for residential development by the first week of February 1986.

Your Committee finds that this exchange is mutually beneficial and agreeable and that the time frame of the first week of February can be met by the department of land and natural resources in view of the time elapsed since the acquisition of land in 1977.

Your Committee on Finance concurs with the intent and purpose of H.R. No. 8, and recommends its adoption.

Signed by all members of the Committee except Representative Nakata.

SCRep. 7-86 Finance on H.C.R. No. 7

The purpose of this concurrent resolution is to request the department of land and natural resources and the hawaii housing authority to conclude the equal value transfer of lands now under the department of land and natural resources which are more suitable for housing to the hawaii housing authority in exchange for those lands in Waiahole Valley currently held by the hawaii housing authority, prior to the conclusion of the 1986 legislative session. The concurrent resolution also requests the department of land and natural resources to complete identification of lands currently classified as agricultural, but which are more suitable and appropriate for residential development by the first week of February 1986.

Your Committee finds that this exchange is mutually beneficial and agreeable and that the time frame of the first week of February can be met by the department of land and natural resources in view of the time elapsed since the acquisition of land in 1977.

Your Committee on Finance concurs with the intent and purpose of H.C.R. No. 7, and recommends its adoption.

Signed by all members of the Committee except Representative Nakata.

SCRep. 8-86 Health on H.B. No. 981

The purpose of this bill is to appropriate the sum of \$20,000 out of the general revenues of the State of Hawaii to be expended by the department of health for Serenity House.

The amount to be appropriated would be used by Serenity House to operate its alcohol and substance abuse treatment program on Kauai for the fiscal period

1986-1987.

Testimonies were received from the department of health and others who were in agreement that additional substance abuse services are greatly needed not only on Kauai but throughout the State.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 981 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cavasso.

SCRep. 9-86 Health on H.B. No. 844

The purpose of this bill is to amend the funding language contained in Act 283, Session Laws of Hawaii 1983, in order to authorize the release of the sum of \$124,440 for the modernization and renovation of Rothwell Wing of Kahuku Hospital.

In 1983, by the provisions of Act 282, the legislature had expressed its approval of the allocation of state funds for the modernization and renovation of Rothwell Wing. The appropriation was contained in the capital improvements budget of the State of Hawaii as a regular funding item. The allocation of the amount, however, was denied on the basis that the appropriation should have been made as a grant-in-aid and not as a regular funding item since Kahuku Hospital is a private and not a state operated hospital. The appropriated amount will lapse on June 30, 1986, unless earlier encumbered. This bill will permit the executive branch to effectuate the intent of the legislature as originally expressed in 1983.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 844 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cavasso.

SCRep. 10-86 Employment Opportunities and Labor Relations on H.B. No. 1675-86

The purpose of the bill is to establish a state on-the-job training program to assist individuals who: (1) lack skills necessary to obtain and hold permanent employment in a trade or occupation; (2) do not qualify to receive job training under the federal Job Training Partnership Act, manpower development and training program under chapter 394, or the dislocated worker program of chapter 394B; (3) do not qualify to receive public assistance; and (4) are residents of this state so that they may obtain jobs which provide compensation sufficient to enable them to be economically self-sufficient.

H.B. No. 1675-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 1675-86, as amended herein, and recommends that it be recommitted to the Committee on Employment Opportunities and Labor Relations, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1675-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 11-86 Agriculture on H.B. No. 1752-86

The purpose of this bill is to appropriate \$29,500 to the College of Tropical Agriculture and Human Resources of the University of Hawaii, for fiscal year 1986-1987 for a county extension agent under the county extension service of Maui.

Your Committee finds that presently there are two permanent agriculture extension agents servicing the horticultural interests on Maui. Due to expansion of the agricultural industries, new technologies in production and marketing, weed control, insect and disease control, improved farm equipments, post harvesting handling techniques, etc., the workload upon these two agents have commensurately increased, resulting in a decrease in the level of service that can be provided.

Your Committee also finds that an extension agent was hired as the result of an appropriation made by the Legislature for fiscal year 1985-1986, restoring the number of extension agents in the horticultural area back to that of 1974.

Your Committee further finds that the supplemental requests will permit the continuation of the employment of the agent and meet the competing demands of the service, providing more effective and thorough service to the growing number of farmers and residents on Maui.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1752-86, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 12-86 Agriculture on H.B. No. 1754-86

The purpose of this bill is to appropriate \$50,000 through the State Department of Agriculture for fiscal year 1986-1987, for promotion of the use of anthuriums in export markets provided that the anthurium industry matches dollar-for-dollar.

Your Committee finds that the depressed European market for anthurium flowers, low-priced flowers from other countries, high tariff, and high air freight rates are factors that have contributed to low market demands.

Your Committee also finds that the promotion of anthurium in the export market must keep pace with the anticipated production increase, otherwise a glut situation may arise and dumping of the excess production may occur.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1754-86, and recommends that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 13-86 Agriculture 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 alternate crops.

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

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

Your Committee also finds that past research efforts on the development of disease-resistant and high yielding varieties of cane have greatly benefitted the industry and have been directly responsible for helping maintain industry profitability during this period of depressed prices.

Your Committee believes that continuing research on alternate crops and by-products is important for the future of Hawaii's sugar industry.

As received by this Committee, the amount to be appropriated by this bill was not specified. Your Committee, therefore, has amended this bill by inserting the sum of \$2,500,000 for sugar research and development provided that \$250,000 shall be used for research and development of alternate crops and by-products.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1697-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1697-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 14-86 Agriculture on H.B. No. 1755-86

The purpose of this bill is to provide funds to support statewide agricultural activities including the development of effective control measures for pest ants, research on the movement and degradation of nematicides, a summary and evaluation of data on pineapple plant growth and development, research on anthurium blight, equipment and supplies for an integrated pest management scout, and research on integrated pest management for tomatoes.

Your Committee finds that ants are serious pests of several important crops in Hawaii, particularly pineapple. On pineapple, ants tend mealybugs which cause mealybug wilt disease. Unless this disease can be controlled by elimination of the ants, large scale crop failure can result. Previously, ants were controlled through the use of Heptaclor sprays, however this material is no longer authorized for ant control. Alternative methods of ant control which are environmentally safe must be developed to meet the needs of Hawaii's diversified agriculture industry.

Last year the legislature provided initial funding for research on fumigants and non-volatile nematicides for the control of nematodes. Additional funding is necessary to continue this research. The pineapple industry has cooperated in these studies making available land, materials, and labor at least equivalent in value. These studies are vital to the continued success of pineapple in Hawaii, and may also generate information that will be of value to other agricultural crops.

The project for a summary and evaluation of available data on pineapple plant growth and development in relation to climate will cover all aspects of pineapple culture. The purpose of the work is to analyze and model an extensive amount of research information already available on pineapple to facilitate more efficient production management decisions, particularly in estimating fruit development and maturity.

Your Committee also finds that two disease conditions, anthurium bacterial blight and anthurium bleach, have been plaguing anthurium growers throughout the state. Further research is required to resolve these problems.

Your Committee further finds that integrated pest management (IPM) is an effective means of crop protection which minimizes the use of chemicals. An essential component of IPM is the periodic monitoring of a crop for pests and their predators to determine when action is necessary. A trained professional scout can provide such monitoring services to a number of farmers.

Your Committee further finds that research to develop a framework for IPM of insect and mite pests on tomatoes is needed. This research will include quantification of the impact of natural enemies on major tomato pests, development of efficient monitoring techniques, establishing the economic thresholds for pest species, and developing population dynamics models for major tomato pests and natural enemies.

Your Committee has amended this bill by amending the definitions of items 2, 4, and 5 to more accurately read as follows:

2. For research on fumigants and non-volatile nematicides for control of nematodes, and research on the movement and degradation of nematicides in

relation to water management on drip irrigated pineapple.

4. For research on anthurium blight/bleach, including but not limited to, the mechanism of transmission of disease organisms, mechanisms of loss of flower color, chemical and cultural control measures, and development of resistant varieties.

5. For the hiring of a technician as a scout for an integrated pest management pilot project and for transportation and supplies.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. no. 1755-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1755-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 15-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1763-86

The purpose of this bill is to amend Section 210-6, Hawaii Revised Statutes, to provide the Director of the Department of Planning and Economic Development (DPED) the option to defer interest payments on a loan under the Hawaii Capital Loan Program up to five years from the date of issuance of the loan.

The Hawaii Capital Loan Program, administered by DPED, has been very successful in providing loans to small businesses which cannot qualify for conventional financing. Under present law the DPED Director has authority to defer principal payments for up to five years.

However, according to testimony by the Department, two years is sufficient, rather than five years, to provide flexibility in debt service payments to maximize the success of the borrower. By deferring interest payments for up to two years, when appropriate, the DPED Director may tailor the loan terms to fit the small-business applicant which maximizes pay-back over the long term. A five-year deferral of interest, coupled with a similar principal payment deferral, may begin to diminish flows to the revolving fund and curtail future lending.

Your Committee is in agreement with DPED's testimony. Therefore, on line 17, page 2, of the bill, the word "five" is replaced by "two".

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1763-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1763-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 16-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2024-86

The purpose of this bill is to amend Section 206E-6(c), Hawaii Revised Statutes, to provide that bonds issued by the district-wide improvement program and the income therefrom shall be exempt from all State, county, and municipal taxation, except transfer and estate taxes.

Under present law, the Hawaii Community Development Authority is authorized to develop needed public improvements in redevelopment districts such as Kaka-ako. The Authority is required to assess a portion of the improvement costs against those properties that benefit from the improvements. Property owners are allowed to make installment payments, with interest, over a period of up to 20 years, in order to mitigate the financial impact of the assessment amounts due. Section 206E-6 authorizes the Authority to issue improvement district assessment bonds to provide financing for these property owners.

According to testimony by the Authority, the State's Bond Counsel has determined that these assessment bonds are not exempt from State and county taxation because:

- (1) Under Chapter 39, Hawaii Revised Statutes, they are not revenue bonds; and
- (2) Under Chapter 206E, there are no exemptions of these assessment bonds from State and county taxes.

Your Committee is in agreement with the Authority's testimony that its assessment bonds are identical to revenue bonds issued by other State departments and agencies inasmuch as they do not rely on the full faith and credit of the State of Hawaii for their repayment. The administration bill would therefore place the Authority's assessment bonds at parity with other revenue bonds of the State. Without this exemption, the Authority's assessment bonds would be at a competitive disadvantage to other comparable revenue bonds.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2024-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 17-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2023-86

The purpose of this bill is to broaden the scope of the High Technology Development Corporation's existing research and development fund to permit the deposit and expenditure of revenues generated by the Hawaii Ocean Science and Technology (HOST) park and any other projects which the Corporation may undertake in the future.

According to testimony by the Corporation, the HOST park will commence operation in October, 1986, and the Corporation is likely to begin receiving revenues derived from the lease rentals paid by the park's tenants. Under present law, Section 206M-15, Hawaii Revised Statutes, the Corporation presently has a high technology research and development fund for the purpose of funding high technology research projects, such as the HOST park. However, the present law limits revenues to legislative appropriations and private contributions, and it is vague in determining expenditures for projects deemed economically viable and beneficial to the State.

Your Committee is in agreement that the Corporation's funding should include sources such as tenant lease rental fees and user fees on the cold seawater resource and other services in the HOST park. Your Committee is also in agreement that the bill identifies proper expenditures from the Corporation's fund.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2023-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 18-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1699-86

The purpose of this bill is to establish a small business procurement assistance office in the Department of Planning and Economic Development (DPED) to assist and encourage Hawaii's businesses to participate more in the federal procurement process and to compete with mainland firms for federal government contracts and subcontracts for goods and services.

According to testimony by the Department, limited assistance programs of this nature exist in Hawaii, such as the Small Business Administration's volunteer Senior Corps of Retired Executives (SCORE) counselor program, the Honolulu Minority Business Development Center (MBDC) in cooperation with the Hawaii Entrepreneurship Training and Development Institute, and Na Oihi o O'ahu for Native Hawaiian-owned businesses. DPED's Small Business Information Service (SBIS) offers limited assistance as proposed in this bill.

Your Committee is of the opinion that available assistance programs are limited, primarily to the necessary clerical and ancillary support services, and that outreach activities need to be begun to not only the small businesses which are members of trade or non-profit organizations but also those which are independent in their marketing and exporting activities.

Your Committee recommends the following amendments to the bill:

(1) To expand its intent to include procurement activities of the State and county governments. In Hawaii, not only the federal but also the State and county governments are buyers of products and services. Your Committee is of the opinion that the non-inclusion of these two levels of government was an inadvertent omission.

(2) To include the phrase "and products" after the term "mainland firms", on line 15, page 2, and the phrase "and purchases" after the term "subcontracts", on line 16, page 2. This amendment is offered for the purpose of clarification.

(3) To specify the sum of \$50,000 to be appropriated for the purpose of this bill. According to testimony by DPED, this sum would cover the salary of a procurement specialist and the costs of establishing electronic information services, obtaining publications and subscriptions, and the preparation and distribution of informational material.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1699-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1699-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 19-86 Housing on H.B. No. 1687-86

The purpose of this bill is to make an appropriation for the State's Rental Assistance Program.

Your Committee finds that there exists a grave shortage of safe and decent rental housing units which are affordable to families and individuals of low and moderate income in Hawaii. For example, an excess of 6,000 applicants are on the waiting list for the Hawaii Housing Authority's public housing program.

Your Committee also finds that the State's Rental Housing Assistance Program was created to stimulate the development and rehabilitation of rental housing accommodations for Hawaii's residents. This innovative program provides interest earnings on the investments of the principal sums in the Rental Assistance Revolving Fund to finance rental assistance payments to eligible projects. The Rental Assistance Revolving Fund currently consists of \$4,000,000. According to testimony presented by the Hawaii Housing Authority (HHA), that sum has generated \$571,000 in net interest earnings and allowed HHA to issue commitments for rental assistance payments to owners of three different rental projects: (1) the 72-unit Manana Garden Apartments in Pearl City; (2) the 10-unit Papaaloe Elderly project in Hilo; and (3) the 90-unit Ewa Village Elderly project in Ewa.

Your Committee believes that additional funds to the Rental Assistance Revolving Fund will help stimulate additional development and rehabilitation of affordable housing units. Your Committee agrees that such funds are necessary because of the increasing costs in development, construction, and maintenance of rental housing, and the growing unavailability of key federal subsidy programs.

The Hawaii Housing Authority, the Hawaii Coalition for the Homeless, Life of the Land, Catholic Social Services, the Episcopal Diocese, and the Kalihi-Palama Immigrant Center testified in favor of this measure.

Your Committee has amended this bill to provide for a \$5,000,000 appropriation to the Rental Assistance Revolving Fund.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 1687-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1687-86, H.D. 1, and be referred to the

Committee on Finance.

Signed by all members of the Committee.

SCRep. 20-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1700-86

The purpose of this bill is to establish an exchange program between the State of Hawaii and its regional sister-relationships in order to share theories, methodologies, and practicalities on economic development, trade, science, education, agriculture, tourism, and related activities in the promotion of continued goodwill and friendship and for the benefit of the peoples of these regions.

According to testimony by the Department of Planning and Economic Development, Hawaii's sister-relationships may be a valuable means for Hawaii to develop international goodwill and to foster cooperative efforts of an economic, educational, cultural, and social nature. Your Committee is in agreement that the proposed exchange program could be a major positive factor in enhancing the several sister-relationships already established between Hawaii and other regions.

Your Committee is of the opinion, however, that the "advisory" in the name of the Committee to be charged with the program should be deleted because the duties of the Committee are not advisory. In addition, the bill should be amended further by placing the Committee in the Department of Planning and Economic Development, for administrative purposes only, because of the economic development focus of the program and because operating functions are more logically placed in agencies responsible for the function. The office of the Governor is and should be primarily concerned with the overall supervision and oversight of the operating agencies.

Your Committee is of the opinion that an appropriation of \$54,000 should be sufficient and necessary for the planning and development of the sister-relationship special exchange program in the fiscal year 1986-1987. Such a sum has been inserted on line 22, page 5, of the bill.

Your Committee has also made a technical, non-substantive amendment to lines 16-20, page 5, of the bill, to read as follows:

"(c) The Committee shall submit progress reports of its activities to the legislature at least twenty days before the convening of the regular sessions of 1987 and of 1988, and a final report and evaluation at least twenty days before the convening of the regular session of 1989".

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

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1700-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1700-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 21-86 Human Services on H.B. No. 1678-86

The purpose of this bill is to expand respite programs by providing each county with funds to improve their elderly day care programs and respite centers.

Your Committee heard testimony that it is highly desirable to enable frail aged individuals to remain in their own homes under the primary care of their own families. Many families, with regular periods of respite assistance, are able and willing to maintain this responsibility, thereby delaying the more costly alternative of long-term institutionalization.

Testimony was also given that respite care, besides being more economical, is also psychologically beneficial for both the frail elderly and their families.

With the increase in the elderly population and the desire of more elderly to remain in their own homes as long as possible, your Committee sees a crucial need to expand all services that would make this possible. This would include providing for construction funds as well as operating funds to ensure the continued development of respite resources in each county.

Accordingly, your Committee has amended this bill to authorize the issuance of general obligations bonds in the sums of \$48,442 for renovation of the Puunene Day Care Center in the County of Maui and \$150,000 for renovation of a wing of the former Hilo Memorial Hospital for a day care center for senior citizens in the County of Hilo who are afflicted with Alzheimers or related disorders.

Your Committee has also provided for \$40,000 to the County of Kauai for a demonstration project of limited overnight and weekend respite care for its current Alzheimers program, and \$100,000 to the City and County of Honolulu to develop a respite clearinghouse to assist in the provision of respite services to families on Oahu to include emergency help, better coordination of existing respite resources, and the establishment of a client care fund to purchase respite services for families who cannot afford these costs.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1678-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1678-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kihano.

SCRep. 22-86 Ocean and Marine Resources on H.B. No. 1707-86

The purpose of this bill is to improve decision-making in the management of our ocean resources by appropriating funds for the establishment of a statewide marine resources inventory system and designates the Department of Planning and Economic Development as the expending agency.

Your Committee finds that while the Department of Planning and Economic Development suggests that an appropriation of \$600,000 would be sufficient to establish this system, our own inquiries lead us to believe that such a system can be developed with \$400,000 generally amortized as follows:

User Needs Analysis	\$115,000
Survey user needs	
Survey existing data bases	
Specify new data bases needed	
Design On Operating System	115,000
Specify requirements, management,	
hardware, software	
Implement Pilot System	120,000
Computerize part of data base	
Bring up part of system	
Use by ultimate users	
Develop Full Implementation Plan	<u>50,000</u>
	<u>\$400,000</u>

A major constraint to properly managing our ocean environment is the lack of a comprehensive data processing system that is accessible to various user groups and one that is designed based on user needs. Too many marine management decisions are being made on a "best guess" basis simply because much of the available data is often not useable by anyone other than the generating organization because of the wide disparity in formats and display modes. The proposed system provides for uniform digitization of existing data bases which would significantly enhance its applicable usefulness by any on-line-user. It is also important to note that the State expends huge sums of money for ocean and marine environmental research but the data acquired serves no useful purpose for anyone other than the researcher in the absence of the proposed system.

While the proposed system is labled a Marine Resource Inventory System it is more commonly referred to in the industry as a Geographic Information System which can also be extended to include land-based data. One of the more obvious applications would be the substantial reduction in the cost of preparing Environ-

mental Impact Statements for both the public and private sectors which currently faces huge costs for geographic data acquisition, interpretation, and interface formatting.

Implementation of such a system would serve to greatly enhance Hawaii's position as an influential Pacific leader as we move across the threshold of the "information age" armed with the necessary state of the art technological data bases not the least of which includes the ocean and space. Such a system is critical to the intelligent management of our natural resources as the conflicting use pressures on the environment escalates and drives government decision-making deeper into a crisis management mode.

Finally, your committee finds that as a result of interim work on this proposal it is important that the system design be based on a user needs analysis and that this step should occur at the beginning of the work sequence.

Your Committee amends this bill to appropriate \$400,000 to establish a statewide marine resources inventory system.

Your Committee is in accord with the intent and purpose of H.B. No. 1707-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1707-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 23-86 Human Services on H.B. No. 2056-86

The purpose of this bill is to broaden the population that can participate in the Department of Social Services and Housing's six-month guaranteed enrollment program in federally qualified health maintenance organizations (HMOs). By removing the limitation to AFDC families only, general assistance and aged, blind and disabled recipients will be eligible to participate.

The Department of Social Services and Housing, testifying in support of the bill, indicated that federal regulations did not allow prepaid health plans to participate in the guaranteed enrollment program. The Department therefore was desirous of expanding its authority to execute risk contracts under §346-59(e), Hawaii Revised Statutes, to include prepaid health plans (PHPs).

The Hawaii Medical Association also testified in support of the bill, believing that fair market competition among all systems of health care delivery was in the public interest.

This bill further clarifies that the six-month guaranteed program is available only to HMOs in order to comply with the requirements for Federal Financial Participation (FFP), which limits matching funds for six months to federally qualified HMOs.

At the same time, however, the Department would be allowed to execute risk contracts with both HMOs and PHPs for the provision of prepaid medical care to all eligible public assistance recipients.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2056-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 24-86 Human Services on H.B. No. 1679-86

The purpose of the bill is to establish a voluntary workfare program for public assistance recipients under the Department of Social Services and Housing.

Your Committee heard testimony in favor of this bill from the Department of Social Services and Housing and the Office of Human Resources of the City and County of Honolulu.

The bill would create a voluntary workfare program that would provide job training, educational opportunities, career planning, and job placement services to participants in the program. Your Committee received testimony that it is difficult for many public assistance recipients to become self-sufficient. Those people with little formal education and few marketable skills often feel trapped and unable to work their way out of their dependency on public assistance programs. This bill would offer those people with the necessary self-motivation the opportunity to develop skills and capabilities that would enable them to find productive jobs and to become self-sufficient. By affording them this opportunity, the State and taxpayers would also benefit by moving these people off of any public assistance.

Your Committee amended the bill by deleting "or four-year college or university" under the education component on page 7, line 14 and also made technical amendments to make the language gender neutral. Your Committee is unable to include an appropriation at this time as cost figures are still being worked out by the Department of Social Services and Housing.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1679-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1679-86, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hashimoto, Kihano, Kiyabu, Lindsey, Shito, Jones and Liu.

SCRep. 25-86 Human Services and Judiciary

The purpose of this bill is to provide assistance to parents who are seeking to modify child support orders and to enforce visitation orders of the court.

Your Committees heard testimony in support of the bill from the Family Court, the Commission on Child Support Enforcement, the Department of Social Services and Housing and the Family Support Division of the Corporation Counsel of the City and County of Honolulu.

This bill attempts to fill a gap in the current system of child support order modification and visitation rights enforcement. Under the current system, the family support divisions of the counties, the court trustees unit and the social worker unit of the Adult Services Branch of the Family Court provide services in this area. The County family support division does not have sufficient staff to handle any but the most critical cases involving modification of support orders. The Court trustees would jeopardize its seventy per cent federal funding if it were to assist non-custodial parents seeking a reduction of child support. In any event, the court trustees do not have sufficient staff to assist either parent in any modification of child support. The social worker unit is primarily involved with short term marital counseling and child custody investigations and reports. A secondary function of the social worker unit is to assist in counseling parents when there is a dispute about visitation rights. The social worker unit however, is unable to assist with enforcement of a visitation order.

Consequently, parents who need assistance with modification of child support orders or enforcement of visitation orders have no public agency to turn to for assistance. This bill would alleviate this problem by funding two positions that would investigate and make recommendations to the family court on issues relating to modification of support and enforcement of visitation rights.

Your Committees have amended this bill by specifying that these two special court trustee positions will specifically address modification of support and visitation orders. This amendment would preserve the federal funds for the present court trustee unit while insuring that parents will receive assistance with support or visitation rights. The bill was further amended to make clear that the special court trustees would be able to assist parents with the enforcement of visitation rights even if there has not been a material change in financial condition of one of the parents. Your Committees have also amended the bill to provide for the due process rights of notice and hearing in the court proceeding in which the special court trustee's recommendation is considered.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 1681-86, H.D. 1, as amended herein, and recommend

that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 1681-86, H.D. 2.

Signed by all members of the Committees except Representatives Tom, Andrews, Apo, Blair, Hashimoto, Kihano, Menor, Lindsey, Taniguchi, Tungpalan, Jones, Liu and Medeiros.

SCRep. 26-86 Higher Education and the Arts on H.B. No. 1664-86 (Majority)

The purpose of this bill is to allow the Board of Regents to establish the salary of the president of the University of Hawaii and to allow the Board to provide for an additional compensation package for the president from public or private sources or both.

Present law provides that the salary of the President of the University of Hawaii shall not exceed \$95,000 a year, and does not allow the Board of Regents to utilize private sources. HB 1664 seeks to provide the Board with flexibility and authority in hiring and retaining the president.

Your Committee is concerned that present law hinders the University of Hawaii in its efforts to attract and compensate executive officers capable of directing the University to academic and institutional excellence.

Testimony was received by your Committee from Ms. Gladys Brandt; Chairperson, Board of Regents.

Testimony was also received from Mr. Tim Farr, Chairman of the State Ethics Commission. Concerns were expressed by Mr. Farr regarding the ramifications HB 1664-86 would have on the applicability of the State Ethics Code, Chapter 84. Hawaii Revised Statutes and the question of the constitutionality in reference to Chapter 84.

Your Committee has amended this bill as follows:

(a) Language referring to salary has been broadened to clarify that all compensation is intended to be considered, on page 1, line 7, and on page 1, line 12.

(b) Reference to Chapter 84 was deleted.

(c) New language has been added requiring that the private portion of the president's package be funded in advance, and donated without conditions (except that it be used for the compensation package), in order to minimize any possibility that the president could be influenced by the source of the private funds.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 1664-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1664, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 27-86 Higher Education and the Arts on H.B. No. 1665-86 (Majority)

The purpose of this bill is to raise the percentage of indirect overhead funds deposited into the University of Hawaii Research and Training Revolving Fund, thus enabling the University to attract additional grants and contracts as well as attract and retain outstanding faculty. The bill is also intended to allow the Board of Regents flexibility in spending funds deposited in the revolving fund.

Testimony was received by your committee from Daniel F. Yount, Vice-President for Research and Graduate Education, who said that University research and training projects attracted more than \$60 million in federal funding last year. This extramural funding has more than doubled during the past decade from \$25 to \$60 million. However, the University's share of the total Federal expenditure has declined. If the University is to remain competitive in research, it can only do so by providing (1) appropriate reinvestment of overhead, and (2) seed money

care centers. However, it is not the intent of the Committee to preclude such an option if other sources of funds prove unavailable.

Your Committees on Higher Education and the Arts and Human Services are in accord with the intent and purpose of H.B. No. 1663-86, and recommend that it pass Second Reading and be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1663-86, H.D. 1.

Signed by all members of the Committees.

SCRep. 29-86 Human Services and Health on H.B. No. 1682-86

The purpose of this bill is to establish a two-year respite care pilot project for disabled elderly persons on the island of Oahu.

This bill will provide the opportunity for fourteen disabled elderly persons being cared for at home to be admitted to an intermediate care facility (ICF) on a rotating basis for up to seventy-two hours every twenty-one days, thereby affording respite for the caregiving family.

Under the provisions of the bill, the elderly person must be:

- (1) at least sixty-five years of age;
- (2) have a physical or mental disability and:
 - (a) be able to reside and be cared for in a private residence by a caretaker,
 - (b) require no more than seventy-two consecutive hours of care in a ICF during each twenty-one-day consecutive calendar day period, and
 - (c) would require ICF placement on a full-time daily basis if respite care were not available; and
- (3) not Medicaid-eligible.

The bill further requires that the Department of Social Services and Housing establish a sliding scale based on the caretaker's ability to pay and provide education, training and counseling services to the disabled individual's immediate family.

Your Committees received testimony from the Department of Health, the Executive Office on Aging, the Commission on the Handicapped and Kokua Council for Senior Citizens-Founders' group in support of this bill.

While the bill in its original form assigned responsibility for this program to the Department of Health, your Committees believe that the Department of Social Services and Housing has greater familiarity with long-term care programs and problems and would therefore be better suited to administer this project.

Your Committees further amended the bill by providing an appropriation in the amount of \$164,000 for the operation of this two-year pilot project.

Your Committees on Human Services and Health are in accord with the intent and purpose of H.B. No. 1682-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1682-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hashimoto, Kihano, Lindsey, Shito, Jones and Liu.

SCRep. 30-86 Higher Education and the Arts and Education on H.B. No. 1666-86

The purpose of this bill is to establish a Teacher Incentive Program to provide loans to students at the University of Hawaii who agree to pursue a curriculum which would qualify them to teach in Hawaii public schools.

Presently there is a predicted teacher shortage in the coming years. This bill is addressing part of the teacher shortage by attracting students to pursue a teaching career.

Testimony was received by your Committee from Dr. Albert Simone, President of the University of Hawaii in support of this bill. Mr. Joe Matsukawa, representing Dr. Francis Hatanaka of the Department of Education and Melvin Goto, Legislative Specialist with the HSTA also testified in concurrence with the bill.

Your Committees have amended this bill as follows:

(a) New language has been added to specify the institution that students must attend to be eligible for the loans. On page 1, line 7, between the words "students" and "who" the words, "at the University of Hawaii" were included.

(b) The subsection on "Tuition loan; qualification of students," was deleted to enable broadening of the range of students eligible for the loans. New language has been added, giving the Board of Regents the authority to determine criteria for qualifications for the loans. Nevertheless, it continues to be the intent of the Committee that this program be used to attract better students to the teaching profession, and it is therefore hoped that students will be required to maintain high academic standards in order to qualify for loans.

The Board will also determine the interest on the principal of the loan and the date of accrual of interest.

(c) The subsection on repayment has also been rewritten.

Your Committees on Higher Education and the Arts and Education are in accord with the intent and purpose of H.B. No. 1666-86, as amended herein, and recommend that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 1666-86, H.D. 1.

Signed by all members of the Committees.

SCRep. 31-86 This number was not assigned.

SCRep. 32-86 Agriculture on H.B. No. 1983-86

The purpose of this bill is to establish and assess fees to defray some of the costs associated with the enforcement Section 142, HRS.

Your Committee finds that all expenses, except for the cost of the initial inspection, associated with the enforcement of Section 142, HRS, and the rules to be adopted, should be borne by the user, owner, handler, or carrier.

Your Committee on Agriculture is in accord with the purpose and intent of H.B. No. 1983-86, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 33-86 Agriculture on H.B. No. 1966-86

The purpose of this bill is to appropriate \$200,000 through the State Department of Agriculture to the Pineapple Growers Association of Hawaii, on a dollar-for-dollar matching basis, for the promotion of Hawaiian fresh pineapples.

Your Committee finds that the Hawaiian fresh pineapple promotion program financed by matching funds from the State and the pineapple industry has proven invaluable.

Your Committee also finds that despite the success of the program thus far, there exists a significant potential for greater market penetration to the western states and western Canada. Continuation of this marketing effort is necessary to generate greater public awareness and to improve the stability of the pineapple industry.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1966-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 34-86 Agriculture on H.B. No. 1964-86

The purpose of this bill is to permit the State Department of Agriculture to reorganize the milk control program by removing all references to the milk commissioner and the Division of Milk Control.

Your Committee finds that the administration of the milk control program, established in 1967, is now routine and the program can be readily administered by a Milk Control Branch under the Division of Marketing and Consumer Services at substantial savings to the State. Placement in this Division is desirable because of the homogeneity with the other programs within the Division.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1964-86, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 35-86 Agriculture on H.B. No. 1982-86

The purpose of this bill is to delete glanders and farcy from the statutes and to increase the penalties for failure to promptly report any contagious or infectious disease occurring in one's own or another's animals.

Your Committee finds that by increasing the penalties, the emphasis on the importance of timely and accurate disease reporting will increase and prevent spreading of such diseases.

Your Committee also recommends the deletion of the diseases glanders and farcy from the statutes since they are non-existent in Hawaii.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1982-86, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 36-86 Consumer Protection and Commerce on H.B. No. 1694-86

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to allow the formation of captive insurance companies in Hawaii. In recent years, many corporations and business associations have been faced with mounting problems in the insurance marketplace. This has led to the formation of insurance subsidiaries or so-called captive insurance companies which are formed primarily to insure or reinsure the insurance exposures of the parent company and its affiliates.

There are numerous reasons why a company or association would look to the captive alternative, but they all have the common goal of greater management control of the organization's resources. Some of the reasons would include:

1. Unavailable or unaffordable coverage, e.g. product liability insurance or malpractice insurance;
2. Lower administrative costs than insurers typically incur;
3. Management tool - allocation of loss costs to profit centers;
4. Access to reinsurance market and lower cost of excess coverage;
5. Insurance capacity and ability to structure a tailor-made program geared to both the parent's needs and those of the insurance and reinsurance market;

6. Broader coverage in lower layers of insurance;
7. Cash flow;
8. Captives shall not be required to join a rating organization;
9. No captive, its insured, its parent, affiliated company or any member organization shall receive any benefit from any plan, pool, association, guarantee or insolvency fund for claims arising out of the operations of its captive insurance company; and
10. The Insurance Commissioner shall adopt rules and regulations pursuant to Chapter 91, Hawaii Revised Statutes.

Your Committee received favorable testimony from the Bank of Hawaii, the Hospital Association of Hawaii, H.C. Cornuelle, Inc., the Hawaii Transportation Association, the National Federation of Independent Business, Straub Clinic and Hospital, Hawaii Residency Programs, Inc. and Aloha Airlines.

Your Committee also received testimony from the following organizations who although in support of the intent of H.B. No. 1694-86, did express concerns in regard to the protection of the policyholder in the event of insolvency: the Department of Health, the Hawaii Insurers Council, the Hawaii Independent Insurance Agents Association and the Department of Commerce and Consumer Affairs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1694-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 37-86 Health on H.B. No. 1684-86

The purpose of this bill is to appropriate out of the general revenues of the State an amount sufficient to educate the public about acquired immune deficiency syndrome (A.I.D.S.) and A.I.D.S. related complex (ARC) during the fiscal period 1986-1987.

Your Committee strongly believes that now is the time for the proper education of the public about A.I.D.S. The fear is that unless there is a broad dissemination of information about A.I.D.S. the level of hysteria and irrational fears will heighten as the number of A.I.D.S. cases increase. The danger is that the fear could translate into people taking punitive action against those who have or are in contact with persons who have A.I.D.S.

Your Committee considered the request of the department of health that the amount to be appropriated should include an amount which would be sufficient to fund an information specialist position within the department. Your Committee, however, rejected the request on the basis that the educational effort envisioned in this bill is to run only for a one year period.

Your Committee is in accord with the intent and purpose of H.B. No. 1684-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 38-86 Judiciary 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.

Approximately twenty-nine state, county, and private organizations and individuals testified in support of this measure.

The prosecutors from the counties of Hawaii, Maui, and Kauai, a representative from the city and county of Honolulu prosecutor's office, and representatives from each county's victim-witness assistance program testified in support of the measure. All expressed their appreciation for the support from the legislature and expressed their support for making the program permanent. The neighbor island prosecutors and victim-witness assistance program representatives expressed concern with the provision in section 3 of the bill which requires matching dollar for dollar by each county.

The attorney general testified in support of the bill but expressed concern that monitoring of the program may entail added staff requirements not necessarily because of this program alone but if considered with other programs currently administered by the department.

Your Committee heard testimony that state funds to the counties' programs were almost cut off by the department of budget and finance with two days notice.

Your Committee also received moving testimony from victims who received assistance from the program.

Your Committee amended section 3 of the bill to require that the counties appropriate funds at a minimum of twenty-five percent (25%) of the amount appropriated by the state. Testimony indicated that all but one county are providing amounts in excess of the proposed twenty-five percent (25%) match. Your Committee clearly intends that counties which do not match this desired minimum level will lose state funds. It is your Committee's sincere desire that if the programs are as beneficial as was clearly indicated in the testimony, the counties will appropriate funds to meet the minimum requirement.

Your Committee further amended the bill to set forth the amount appropriated to each county.

Lastly, your Committee believes the attorney general should not be primarily responsible for establishing program policies and criteria, and accordingly, amended the bill to allow the county prosecutors to assist in the formulation of program policies and criteria.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1691-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1691-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 39-86 Human Services on H.B. No. 2126-86

The purpose of this bill is to provide for automatic assignment of future wages from absent parents who are at least one month delinquent in child support payments and in spousal support when written in a court order for child support.

This bill also imposes a forty-five (45) day deadline for the resolution of contested cases on automatic wage assignments and limits obligor's defenses to mistakes of fact.

This bill is needed to bring Hawaii law into compliance with the federal mandates under P.L. 98-378.

Your Committee heard testimony in support of this bill from Family Court, the Department of Social Services and Housing and the Commission on Child Support Enforcement.

Your Committee finds that having an expedited process for the speedy resolution of an obligor's objections to automatic wage assignments is important to

ensuring the continued well-being of children.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2126-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 40-86 Human Services and Judiciary on H.B. No. 1681-86

The purpose of this bill is to provide assistance to parents who are seeking to modify child support orders and to enforce visitation orders of the court.

Your Committees heard testimony in support of the bill from the Family Court, the Commission on Child Support Enforcement, the Department of Social Services and Housing and the Family Support Division of the Corporation Counsel of the City and County of Honolulu.

This bill attempts to fill a gap in the current system of child support order modification and visitation rights enforcement. Under the current system, the family support divisions of the counties, the court trustees unit and the social worker unit of the Adult Services Branch of the Family Court provide services in this area. The County family support division does not have sufficient staff to handle any but the most critical cases involving modification of support orders. The Court trustees would jeopardize its seventy per cent federal funding if it were to assist non-custodial parents seeking a reduction of child support. In any event, the court trustees do not have sufficient staff to assist either parent in any modification of child support. The social worker unit is primarily involved with short term marital counseling and child custody investigations and reports. A secondary function of the social worker unit is to assist in counseling parents when there is a dispute about visitation rights. The social worker unit however, is unable to assist with enforcement of a visitation order.

Consequently, parents who need assistance with modification of child support orders or enforcement of visitation orders have no public agency to turn to for assistance. This bill would alleviate this problem by funding two positions that would investigate and make recommendations to the family court on issues relating to modification of support and enforcement of visitation rights.

Your Committees have amended this bill by specifying that these two special court trustee positions will specifically address modification of support and visitation orders. This amendment would preserve the federal funds for the present court trustee unit while insuring that parents will receive assistance with support or visitation rights. The bill was further amended to make clear that the special court trustees would be able to assist parents with the enforcement of visitation rights even if there has not been a material change in financial condition of one of the parents. Your Committees have also amended the bill to provide for the due process rights of notice and hearing in the court proceeding in which the special court trustee's recommendation is considered.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 1681-86, H.D. 1, as amended herein, and recommend that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 1681-86, H.D. 2.

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

SCRep. 41-86 Human Services and Health on H.B. No. 1682-86

The purpose of this bill is to establish a two-year respite care pilot project for disabled elderly persons on the island of Oahu.

This bill will provide the opportunity for fourteen disabled elderly persons being cared for at home to be admitted to an intermediate care facility (ICF) on a rotating basis for up to seventy-two hours every twenty-one days, thereby affording respite for the caregiving family.

Under the provisions of the bill, the elderly person must be:

- (1) at least sixty-five years of age;
- (2) have a physical or mental disability and:
 - (a) be able to reside and be cared for in a private residence by a caretaker,
 - (b) require no more than seventy-two consecutive hours of care in an ICF during each twenty-one-day consecutive calendar day period, and
 - (c) would require ICF placement on a full-time daily basis if respite care were not available; and
- (3) not Medicaid-eligible.

The bill further requires that the Department of Social Services and Housing establish a sliding scale based on the caretaker's ability to pay and provide education, training and counseling services to the disabled individual's immediate family.

Your Committees received testimony from the Department of Health, the Executive Office on Aging, the Commission on the Handicapped and Kokua Council for Senior Citizens-Founders' group in support of this bill.

While the bill in its original form assigned responsibility for this program to the Department of Health, your Committees believe that the Department of Social Services and Housing has greater familiarity with long-term care programs and problems and would therefore be better suited to administer this project.

Your Committees have further amended the bill by providing an appropriation in the amount of \$164,400 for the operation of this two-year pilot project.

Your Committees on Human Services and Health are in accord with the intent and purpose of H.B. No. 1682-86, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 1682-86, H.D. 1.

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

SCRep. 42-86 Higher Education and the Arts and Human Services on H.B. No. 1663-86

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

Testimony was received by Dr. Albert Simone, President of the University of Hawaii, who objected to the specificity of operational procedures, particularly in sections 2 and 3.

Those in favor of the bill were: Kalani Eby; Ms. Janet Lee, from the Hawaiian Association for the Education of Young Children; the National Organization for Women; and Jean Williams, Chairperson of the Working Women of Hawaii. Ms. Sena Gates, Project Director of the Single Parent Family Advocacy Network, also testified.

Your Committee has re-written H.B. No. 1663-86 to provide that:

- (1) The University of Hawaii has the authority to establish one or more child care centers on each campus of the University system.
- (2) The University shall establish policies and standards of operation for each child care center.
- (3) Each child care center shall be self-supporting.
- (4) A revolving fund shall be established for the child care facilities.

Your Committee has not included an appropriation for construction of the child care centers. However, it is not the intent of the Committee to preclude such an option if other sources of funds prove unavailable.

Your Committees on Higher Education and the Arts and Human Services are in accord with the intent and purpose of H.B. No. 1663-86, and recommend that it pass Second Reading and be referred to the Committee on Finance, in the form attached hereto as H.B. No. 1663-86, H.D. 1.

Signed by all members of the Committees except Representatives Hagino, Hashimoto, Hirono, Kihano, Kiyabu, Lindsey, Nakasato, Jones and Pfeil.

SCRep. 43-86 Higher Education and the Arts and Education on H.B. No.
1666-86

The purpose of this bill is to establish a Teacher Incentive Program to provide loans to students at the University of Hawaii who agree to pursue a curriculum which would qualify them to teach in Hawaii public schools.

Presently there is a predicted teacher shortage in the coming years. This bill is addressing part of the teacher shortage by attracting students to pursue a teaching career.

Testimony was received by your Committee from Dr. Albert Simone, President of the University of Hawaii in support of this bill. Mr. Joe Matsukawa, representing Dr. Francis Hatanaka of the Department of Education and Melvin Goto, Legislative Specialist with the HSTA also testified in concurrent with the bill.

Your Committees have amended this bill as follows:

(a) New language has been added to specify the institution that students must attend to be eligible for the loans. On page 1, line 7, between the words "students" and "who" the words, "at the University of Hawaii" were included.

(b) The subsection on "Tuition loan; qualification of students," was deleted to enable broadening of the range of students eligible for the loans. New language has been added, giving the Board of Regents the authority to determine criteria for qualifications for the loans. Nevertheless, it continues to be the intent of the Committee that this program be used to attract better students to the teaching profession, and it is therefore hoped that students will be required to maintain high academic standards in order to qualify for loans.

The Board will also determine the interest on the principal of the loan and the date of accrual of interest.

(c) The subsection on repayment has also been rewritten.

Your Committees on Higher Education and the Arts and Education are in accord with the intent and purpose of H.B. No. 1666-86 and recommend that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 1666-86, H.D. 1.

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

SCRep. 44-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2022-86

The purpose of this bill is to amend Section 206E-6, Hawaii Revised Statutes, to authorize the Hawaii Community Development Authority to create statutory liens against properties which will be assessed for certain improvement costs under the Authority's district-wide improvement program. The bill also provides that such liens shall have priority over all liens except the lien of property taxes.

According to testimony by the Authority, the creation of statutory liens against properties within an improvement district area, as security for unpaid assessments, is standard and customary for any improvement district program, including those of the counties of Hawaii. However, Section 206E-6 does not expressly

authorize or imply that a statutory lien is to be created.

Your Committee is in agreement with the State's Bond Counsel that the creation of statutory liens against properties must be expressly authorized or clearly implied by the Legislature. This bill will then enable the Authority to provide financing to assessed property owners at the lowest possible interest rate.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2022-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 45-86 Health on H.B. No. 1685-86

The purpose of this bill is to declare acquired immune deficiency syndrome to be an infectious and communicable disease, thereby requiring physicians and chiropractors having a patient infected with the disease to give such notice to the department of health.

Your Committee agrees that this bill is needed not only to combat the spread of this pernicious disease but, also, to make it possible to assist those who are afflicted with it.

The department of health, in its testimony, recommended that the bill be amended to give the department the authority to adopt rules to require the reporting of other conditions as well, as related to A.I.D.S. Your Committee agrees with the department of health that it should be granted such authority. The department, then, would be in a better position to conduct its surveillance of A.I.D.S. cases in Hawaii despite the rapid changes in technology and information which are occurring in the field.

The department of health assured your Committee that it is its intent, with the granting of the authority to adopt rules as related to A.I.D.S., that policies would be promulgated which would include the reporting of those cases among so-called high risk groups where individuals test positive as to A.I.D.S. virus infection.

Your Committee agrees with the recommendation of the department of health and, accordingly, has amended the bill.

Your Committee on Health is in agreement with the intent and purpose of H.B. No. 1685-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1685-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 46-86 Health on H.B. No. 1686-86 (Majority)

The purpose of this bill is to make confidential, and not subject to discovery by court order, the reports made to the department of health of any person whose blood has tested positive for acquired immune deficiency syndrome (A.I.D.S.).

Your Committee agrees with the purpose of this bill and feels that it is needed in order to encourage those suspected of having A.I.D.S. to seek voluntary testing. Your Committee believes that the lack of confidentiality would discourage such persons from being tested and this would be detrimental to the well-being of the people of our community.

Your Committee received testimony from the department of health supporting the bill but recommending certain amendments in order that all concern involved in the reporting of information relating to A.I.D.S. are properly addressed. Essentially, the recommended amendments specify in greater detail those instances when the reported information shall be released while the requirement of strict confidentiality is maintained. An example of such a situation would be the release of the reported information for statistical purposes.

Your Committee heard testimony from the Department of Land and Natural Resources in support of S.B. No. 92. This is a companion measure of H.B. No. 189 which your committee discussed extensively with interested parties during the 1985 legislative session.

Your Committee amends this bill to remove the brackets enclosing the word "purchased" on page 1, line 12 to include the act of purchasing in this measure.

Your Committee is in accord with S.B. No. 92, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 92, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 49-86 Agriculture and Judiciary on H.B. No. 1974-86

The purpose of this bill is to amend Section 142-29, HRS, to provide for the application to all parts of Chapter 142, HRS.

Your Committees find that the current statute is vague as to the authority to investigate any violation and this bill will enable inspectors to identify problem areas and take appropriate corrective measures.

Your Committees on Agriculture and Judiciary are in accord with the intent and the purpose of H.B. No. 1974-86, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 50-86 Agriculture and Judiciary on H.B. No. 1971-86

The purpose of this bill is to authorize the State Department of Agriculture inspectors to board any vessel, vehicle, or aircraft and enter any premises to enforce the provisions of this section.

Your Committees find that this change clarifies the rights of entry for conducting inspections.

Your Committees recommended that proper higher authorities within the department be notified in the event that such boarding or entries are determined to be necessary.

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 1971-86, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 51-86 Human Services and Judiciary on H.B. No. 1680-86

The purpose of this bill is to give the court the discretion to make parents liable for support of the children of their unmarried minor children.

Under current law, when the minor parents do not have sufficient resources to support the child, the minors have to rely on support either from the custodial parent's family or from government social programs. Occasionally, the non-custodial minor parent will avoid any responsibility to support the child. In this case, society in general and the taxpayers in particular bear the burden. Your Committees believe that courts should have the discretion to order parents of minors to pay child support, rather than depending on the government to assume responsibility for the actions of their child.

Your Committees heard testimony in support of this bill from the Department of Social Services and Housing and the Family Support Division of the Corporation Counsel of the City and County of Honolulu.

Your Committees have amended the bill by making the language gender neutral and substituting "noncustodial parent" wherever the word "father" appears and

"custodial parent" for mother.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 1680-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1680-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Kihano, Menor and Jones.

SCRep. 52-86 Human Services and Health on H.R. No. 18

The purpose of this resolution is to request the Legislative Reference Bureau to study the feasibility of establishing a Department of Human Services which would combine the functions of the Department of Health and the Department of Social Services and Housing and to submit the study to the Legislature prior to the convening of the Regular Session of 1987.

The Department of Social Services and Housing, the Department of Health, the Hospital Association of Hawaii, and the Statewide Human Services Action Council testified in strong support of the resolution.

Currently the Department of Social Services and Housing provides services and programs to meet the social and basic financial needs of indigent persons while the Department of Health meets the health-related needs of the community. However, because of the tremendous overlap between the departments in meeting the emotional, physical and financial well-being of our citizens, particularly the elderly and the disabled, those exposed to family violence and sexual assault, and those in need of long term care, it is becoming increasingly apparent that a combination of the two departments might not only save administrative costs in avoiding overlap in certain areas, but in addition could provide more efficient and effective treatment for clients.

Your Committees on Human Services and Health concur with the intent and purpose of H.R. No. 18 and recommend that it be referred to the Committee on Finance.

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

SCRep. 53-86 Human Services on H.R. No. 6

The purpose of this resolution is to request that the Department of Social Services and Housing address specific issues in the director's biennial report concerning the adequacy of the basic needs allowance and shelter allowance established by Chapter 346, Hawaii Revised Statutes. The issues requested for inclusion are:

- (1) a profile of each major category of public assistance recipients;
- (2) the variables of working and nonworking families receiving public assistance, in addition to the size of families;
- (3) a comparison between the 1978 shelter allowance schedule which is still applied and the actual shelter costs borne by public assistance recipients for fiscal year 1985; and
- (4) an analysis of an increase in the basic needs allowance and shelter allowance schedule based on both the consumer price index and the most current annual wage increase in the State of Hawaii.

Even though the last increase for the basic needs allowance and shelter allowance was in 1978, the January 1985 biennial report by the Department of Social Services and Housing indicated that a family of four receiving the maximum amounts is above the federal poverty level but below the low budget family level and recommended that the maximum allowances remain the same. Receiving such information in the biennial report, the Legislature will be better able to address the problems faced by those families who must depend on those allowances.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 6 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola and Kihano.

SCRep. 54-86 Human Services on H.C.R. No. 5

The purpose of this concurrent resolution is to request that the Department of Social Services and Housing address specific issues in the director's biennial report concerning the adequacy of the basic needs allowance and shelter allowance established by Chapter 346, Hawaii Revised Statutes. The issues requested for inclusion are:

- (1) a profile of each major category of public assistance recipients;
- (2) the variables of working and nonworking families receiving public assistance, in addition to the size of families;
- (3) a comparison between the 1978 shelter allowance schedule which is still applied and the actual shelter costs borne by public assistance recipients for fiscal year 1985; and
- (4) an analysis of an increase in the basic needs allowance and shelter allowance schedule based on both the consumer price index and the most current annual wage increase in the State of Hawaii.

Even though the last increase for the basic needs allowance and shelter allowance was in 1978, the January 1985 biennial report by the Department of Social Services and Housing indicated that a family of four receiving the maximum amounts is above the federal poverty level but below the low budget family level and recommended that the maximum allowances remain the same. Receiving such information in the biennial report, the Legislature will be better able to address the problems faced by those families who must depend on those allowances.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 5 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kihano.

SCRep. 55-86 Transportation on H.B. No. 1815-86

The purpose of this bill is to establish a justifiable rate and reasonable manner of assessing liveaboard fees within the State's small boat harbors.

Your Committee finds that, under present law, the liveaboard fee is based on a multiple of the mooring fee which is charged by the Department of Transportation.

Your Committee received testimony from the Department of Transportation favoring this bill to change the method of assessing the liveaboard fee.

Your Committee therefore agrees with the intent of this bill, to base the assessment of the liveaboard fee on factors other than the mooring fee.

Your Committee made a technical, non-substantive amendment to correct a drafting error at page 3, line 4.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1815-86, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1815-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 56-86 Transportation on H.B. No. 425

The purpose of the bill is to require motor vehicles which are registered in one

SCRep. 58-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2105-86

The purpose of this bill is to amend Section 171-21, Hawaii Revised Statutes, to remove the State as guarantor when its interests in lands are subjected to a security interest or mortgage.

Under present law, a lessee is authorized to mortgage the lessee's leasehold interest, with the consent of the chairperson of the Board of Land and Natural Resources. The statute also provides for notification to the lessee of any breach or default in order that the lessee may cure the breach or default. Similarly, the security interest holder is notified and given opportunity to cure or remedy the breach or default if the holder so desires. If the security interest holder decides not to cure or remedy the breach or default, and if the Board seeks to terminate the lease, the Board must either pay the holder the amount of the mortgage debt, together with interest and penalties, or terminate the lease subject to the lien or mortgage. In effect, the Board acts as an insurer or guarantor to any lender.

Your Committee is of the opinion that the State should not act as guarantor of such mortgage loan and should be able to redispense of the land free and clear of the mortgage if the default has not been cured. This bill, however, does not preclude a mortgagor from protecting its mortgage by foreclosing on a lease, pursuant to Section 171-22, Hawaii Revised Statutes, prior to the Board's re-disposition of the land. If the State should receive any value upon redistribution in excess of the land's fair market lease value, the difference would accrue, after costs, to the mortgagee.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2105-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 59-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2107-86

The purpose of this bill is to provide income tax credits for persons investing in certified capital companies whose primary business activity is the investment of funds for equity in local small businesses in need of start-up or expansion capital. In effect, the bill proposes to allow a person, either an individual or a corporation, to claim an investment tax credit against the person's full income tax liability until the credit is exhausted, thereby demonstrating Hawaii's commitment to job creation by small business wherein enactment of a tax incentive program would encourage private capital formation for equity investments in local businesses.

Under present law, Section 235-2.3(b)(1), Hawaii Revised Statutes, the Internal Revenue Code, in respect to determination of tax liability, is not operative for Hawaii income tax purposes. The Hawaii income tax law does not provide for investment tax credits, the amount of which is allowable under Section 46 of the Internal Revenue Code.

Your Committee received testimony from the Departments of Planning and Economic Development (DPED) and of Taxation. Your Committee is in agreement with DPED that there is a need in Hawaii of start-up and expansion capital for new companies. The establishment of tax credit provisions for investors in private venture pools would be an inducement to investors in businesses in Hawaii. However, your Committee is also in agreement with Taxation's testimony that the title, "Investment tax credit", and its content in lines 9-20, page 3, of the bill may create confusion inasmuch as the Internal Revenue Code allows for investment tax credits but on a totally different concept set forth by federal law. To facilitate enforcement and taxpayer compliance, in the event that this bill is enacted, your Committee recommends that the proposed section on "Investment tax credit" be properly placed under Chapter 235, Income Tax Law. Your Committee has therefore deleted lines 9-20, page 3, from SECTION 2 of the bill and inserted a new SECTION 3 for "Investment tax credit".

Your Committee has further amended this bill to make technical changes.

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

accord with the intent and purpose of H.B. No. 2107-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2107-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 60-86 Agriculture on H.B. No. 1855-86

The purpose of this bill is to require that licensed slaughterhouses and any person slaughtering animals at any place other than a licensed slaughterhouse report in greater detail the brands of the animals slaughtered. The bill also provides that if the brand on the animal appears to be obliterated or felonious, the person or slaughterhouse must notify the appropriate law enforcement agency.

Your Committee finds that cattle rustling is a problem and that substantial economic losses have been experienced by the livestock industry. The reporting of a full description of each and every brand, in addition to the requirements to report any obliterated or felonious brand to the proper authorities, may lessen the incidence of cattle theft.

Your Committee believes that the intent of this bill would be further enhanced if a penalty for non-compliance with the reporting requirements was to be assessed. Accordingly, your Committee has amended this bill by adding a new Section 2 to the bill which amends Section 146-24, H.R.S., by including violation of Section 146-22, "Reports", as a punishable violation. Technical, non-substantive amendments for purposes of style and format were also made.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1855-86, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H. B. No. 1855-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Crozier.

SCRep. 61-86 Agriculture on H.B. No. 1965-86

The purpose of this bill is to provide financial assistance to Molokai cattle ranchers for a one-year period following depopulation of cattle from that island to eradicate bovine tuberculosis.

Your Committee finds that hardships have resulted from the efforts of the State Department of Agriculture to eradicate bovine tuberculosis. While specific financial needs have not as yet been identified, the Department's ongoing survey and proposed public hearings will assist in properly identifying the ranchers' needs.

As received by this Committee, the amount to be appropriated by this bill was not specified. Your Committee, therefore, has amended this bill by inserting the sum of \$50,000.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1965-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1965-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 62-86 Judiciary on H.B. No. 1812-86

The purpose of this bill is to amend section 612-8, Hawaii Revised Statutes, to increase the daily payment to jurors from twenty dollars to thirty dollars.

Under present law the daily payment to jurors is twenty dollars for each day of actual attendance at court.

Your Committee received testimony from the Judiciary in support of this measure. The Judiciary indicated that the increase in the daily pay of jurors would encourage citizen participation in the jury system. The testimony also

indicated that the cost state-wide for increasing the juror pay would be approximately \$580,000 per year and an additional \$97,000 may be required if this measure takes effect in the current fiscal year. Professor John Van Dyke of the University of Hawaii's William S. Richardson School of Law, Michael Chun, a private citizen, and a representative from the ILWU Local 142 submitted testimony in favor of this bill. Testifiers indicated that persons who do not continue to receive their normal salary during jury duty will ask to be excused.

Your Committee finds that the proposed amendments will be a good first step in improving the jury system of this State.

Your Committee has amended this bill by adding a new section that appropriates the sum of \$580,000 for fiscal year 1986-1987 to cover the cost of increasing juror's pay from twenty dollars to thirty dollars per day and has amended the effective date to commence with the next fiscal year.

Your Committee has added another section to this bill that designates the Judiciary as the expending authority.

For purposes of consistency your Committee has also amended the bill by re-numbering section 2 to section 4.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1812-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1812-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 63-86 Health on H.B. No. 1772-86

The purpose of this bill is to encourage the use of arbitration and mediation as alternatives to legal action in resolving medical tort cases.

Your Committee believes that requiring all attorneys to inform their clients of the possibility of using arbitration or mediation as alternatives to litigation would be beneficial to all parties involved in medical tort disputes. It is hoped that the informality of the arbitration and mediation processes will result in claims being resolved more expeditiously and with lower cost to the parties.

Your Committee has made a technical, nonsubstantive amendment to the bill for purposes of style and clarity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1772-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1772-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 64-86 Health on H.B. No. 1771-86

The purpose of this bill is to impose limitations on the amount an attorney may charge a client under a contingent fee arrangement in a medical tort case.

Under present statutory provisions, a contingent fee arrangement is subject to court approval but there are no specified limitations.

This bill sets contingent fee limitations as follows:

- (1) 40 percent of the first \$50,000;
- (2) 33-1/3 percent of the next \$50,000;
- (3) 25 percent of the next \$100,000; and
- (4) 10 percent of any amount exceeding \$200,000.

Your Committee is wary of band-aid fixes to any social problem, especially with

respect to a problem of the magnitude of medical malpractice insurance. Your Committee, however, feels that this bill will help ameliorate the problem. However, your Committee believes that the interests of all persons should be carefully balanced. In order that no person with a meritorious cause of action be denied representation by an attorney, your Committee has amended the bill to provide, with respect to any amount exceeding \$200,000, that the contingent fee percentage shall not be in excess of 20 percent.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1771-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1771-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 65-86 Health on H.B. No. 1768-86

The purpose of this bill is to shorten the time period a minor has in which to commence a medical tort action against certain health care providers.

Under current provisions of the law, a minor may file a medical tort action within six years after reaching eighteen years of age. This bill would amend the law by providing that a minor shall commence an action within six years from the date of the wrongful act, except that a minor under the age of ten shall commence the action within six years after attaining the minor's tenth birthday, whichever provides a longer period.

Presently, the exceptionally long period available to a minor during which time the minor could file a medical tort action creates a period of instability for doctors as well as insurers. Your Committee feels that this might be an actuarial factor which could affect the setting of medical malpractice insurance rates. Furthermore, your Committee feels that the shortening of the statute of limitations with respect to minors should not be detrimental to them. The parents of an injured minor not only should be responsible for overseeing the well-being of their child, but also could be reasonably expected to take every necessary step to see that their child's rights are protected.

As to the possibility of fraud or collusion being perpetrated between the parents and a health care provider in deliberately not filing an action on behalf of the minor, the bill provides for the tolling of the statute of limitations in such situations.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1768-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 66-86 Health on H.B. No. 1769-86

The purpose of this bill is to place a limit on the amount an injured person may recover in damages for noneconomic losses in a medical tort action against a health care provider.

In Hawaii, as in most jurisdictions, there is no limit that an injured person may recover in damages for noneconomic losses suffered which would compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damage.

Your Committee believes that unrealistically high recoveries do have an impact on medical malpractice insurance premium rates. At the same time, your Committee strongly believes that the interests of those injured by the malpractice of health care providers should be protected. Your Committee, therefore, has attempted to balance the interests of all parties involved in a medical malpractice action by amending the bill to set the recoverable limit for noneconomic loss at \$500,000.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1769-86, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 1769-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 67-86 Consumer Protection and Commerce on H.B. No. 2026-86

The purpose of this bill is to amend Section 26-9, Hawaii Revised Statutes, to provide the Department of Commerce and Consumer Affairs (Department) with the authority to contract with professional testing services to prepare, administer and grade examinations and tests for license applicants. The bill also provides the Department and its boards or commissions with the authority to provide by rule the flexibility to acquire alternative forms of security whenever comparable bond or insurance cannot be reasonably secured.

Your Committee received favorable testimony from the Department, the Hawaii Association of Realtors and the Hawaii Business League. The Department testified that the State presently faces an insurance crisis. Accordingly, it is important that the Department be given the flexibility to respond to this problem. The Department further testified that the use of national testing agencies would provide the Department with superior examinations which would be beyond criticism.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2026-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 68-86 Consumer Protection and Commerce on H.B. No. 1935-86

The purpose of this bill is to appropriate \$12,600 for fiscal year 1986-1987 to the Business Registration Division of the Department of Commerce and Consumer Affairs to be used to establish an additional clerk-typist position in the securities licensing area of the business registration program.

Your Committee received favorable testimony from the Business Registration Division (Division). The Division testified that it is presently utilizing three positions in the securities licensing area and has been successful in keeping up with the workload. However, the Division testified that the additional position will allow the securities branch to keep up with the three week average turn-around time for securities applications.

Your Committee finds that without the additional position, the Division will be forced to either borrow an additional clerk-typist from another branch in the Department of Commerce and Consumer Affairs or face the prospect of having the application process time delayed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1935-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 69-86 Consumer Protection and Commerce on H.B. No. 1902-86

The purpose of this bill is to appropriate \$350,000 for fiscal year 1986-1987 to be expended by the Insurance Commissioner of the Department of Commerce and Consumer Affairs for litigation expenses in the insurance services program.

Pursuant to the Rehabilitation and Liquidation provisions of the Insurance Code, the Insurance Commissioner is directed to act as a receiver of an insolvent insurer. On October 5, 1984, Financial Security Insurance Company, Ltd, (FSIC), a company owned by Robert J. Keller, was rendered insolvent and the Insurance Commissioner was appointed receiver.

As receiver, court actions were filed against the principal owner for misappropriation and other counts. Thus far, the Insurance Commissioner has obtained

three final judgments in an aggregate amount in excess of \$13,000,000.00. These judgments also imposed a constructive trust on certain real property in which Robert J. Keller has an interest, together with promissory notes and deeds of trust which Mr. Keller generated by selling parcels of that property.

On or about September 21, 1984, the day the Insurance Commissioner took over FSIC, it became evident that FSIC did not have substantial liquid assets. Consequently, the cost of the receivership became the responsibility of the State. To protect these funds, the Insurance Commissioner secured a court order authorizing the receiver to borrow State funds secured by a first lien on the assets of the receivership estate.

Your Committee received favorable testimony from the Insurance Commissioner.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1902-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 70-86 Consumer Protection and Commerce on H.B. No. 1901-86

The purpose of this bill is to appropriate \$80,000 for fiscal year 1986-1987 to allow the Insurance Commissioner of the Department of Commerce and Consumer Affairs to acquire additional actuarial services in the insurance services program.

Presently, the Insurance Division (Division) of the Department of Commerce and Consumer Affairs administers Chapter 431, Hawaii Revised Statutes, and the Hawaii Insurance Laws, including specific statutory provisions relating to casualty insurance ratemaking. The Division's role in the ratemaking process includes the use of detailed actuarial evaluation, justification and statutory compliance, which often require the services of a consulting actuary.

Your Committee received favorable testimony from the Insurance Division and the Hawaii Independent Insurance Agents Association. The Insurance Division testified that an in-house actuary will provide monitoring and validation capabilities, a thorough review of rates, and ratemaking training opportunities for staff members. Further, an in-house actuary would be an invaluable resource for legislative study purposes.

Your Committee has amended line 4 of the bill to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1901-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1901-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 71-86 Consumer Protection and Commerce on H.B. No. 1933-86

The purpose of this bill is to authorize an appropriation of \$29,600 for fiscal year 1986-1987 to establish a "utility economist" position in the Division of Consumer Advocacate of the Department of Commerce and Consumer Affairs.

Since 1980, the number of authorized positions for the Division of Consumer Advocacate has been reduced from 46 authorized, funded positions to the current level of 19 positions-- a 59 percent reduction in authorized personnel. The adverse impacts of this dramatic reduction have been offset somewhat by the appropriation of additional funds by the Legislature to enable the Division to retain consultants to develop expert testimonies on highly specialized topics such as cost accounting, utility generating station efficiencies, legal services, and expertise in telecommunications technologies and market strategies. However, the most frequently needed expert testimony relates to areas of utility economics in order to document and support opinion testimonies on pricing theories for utility services based on sound economic costing theories, as well as testimonies assessing economic impacts due to changes in utility operations.

Your Committee received favorable testimony from the Consumer Advocate and

Hawaiian Electric Company. The Consumer Advocate testified that the establishment of the "utility economist" position would result in some savings to the Division. More importantly, however, is the fact that the quality of the Division's testimonies would be greatly enhanced if the position were established and filled by a competent individual who would be available, on a full-time basis, to advise other staff members, as well as being available to prepare and present testimonies before various regulatory agencies.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1933-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 72-86 Consumer Protection and Commerce on H.B. No. 2032-86

The purpose of this bill is to amend Chapter 448E, Hawaii Revised Statutes, by adding a new section to authorize the Board of Electricians and Plumbers to examine applicants and to provide the option of contracting examination services with a testing agency if the Board chooses to do so. The bill also adds new provisions relating to disciplinary sanctions that may be imposed by the Board and the grounds for which disciplinary sanctions shall be imposed and to establish a minimum administrative penalty.

Your Committee received favorable testimony from the Board of Electricians and Plumbers (Board) of the Department of Commerce and Consumer Affairs. The Board testified that Chapter 448E, Hawaii Revised Statutes, does not contain any provisions relating to disciplinary sanctions which may be imposed by the Board and the grounds for which disciplinary sanctions shall be imposed. Section 448E-10 is being amended to provide for this. The disciplinary sanctions which may be imposed are consistent with that authorized in Chapter 91, Hawaii Revised Statutes, and with that imposed by all boards and commissions. Also, the right to hearing, as presently provided for in Section 448E-6 is being incorporated into Section 448E-10 for consolidation purposes, and Section 448E-6 is being repealed. The grounds for which disciplinary sanctions shall be imposed are intended to protect the health and welfare of the public. The provision relating to a fine, which is currently provided for in Section 448E-10 will be retained with an amendment to establish a minimum fine to ensure that a fine will have some impact on the licensee who violates this Chapter.

The Board further testified that a new section entitled "Examination" has been added to clearly set forth the examination requirement and to permit the Board to contract with a testing agency to develop, administer and grade the written examination for the Board. Utilizing a testing agency is not an uncommon practice. In fact many boards within the Department either contract with a national association or a professional testing agency for their licensure examination.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2032-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 73-86 Consumer Protection and Commerce on H.B. No. 1934-86

The purpose of this bill is to appropriate \$32,000 in fiscal year 1986-1987 to be used by the Division of Financial Institutions (Division) of the Department of Commerce and Consumer Affairs for the purpose of providing training for its staff of examiners.

Your Committee received favorable testimony from the Division. The Division testified that the \$32,000 appropriation would reflect a "status quo" situation, in view of anticipated cuts in federal training subsidies. The Division further testified that even prior to the impending passage of the Gramm-Rudman bill, the Federal Home Loan Bank Board had advised all state regulatory agencies that federal subsidies for training state examiners would be severely restricted.

Your Committee finds that the termination or restriction of federal subsidies is significant, given the fact that the Federal Home Loan Bank Board previously

subsidized 100% of state examiner training (e.g., transportation, tuition, and lodging expenses). In 1984 and 1985, the Federal Home Loan Bank Board spent an average of \$28,000 annually on the training of Hawaii examiners. Accordingly, loss of these federal funds will have a serious impact on the continuing ability of the Division's examiners to examine and monitor financial institutions, unless State funds can be obtained. Clearly, the long-run solution to the problem of adequate training for state examiners lies in the State's ability to provide more funds for this purpose.

Your Committee further finds that the Gramm-Rudman bill will compound the problems of the Federal Home Loan Bank Board and other regulatory agencies. Federal bank and thrift regulators are now scrambling to ascertain the impact of the Gramm-Rudman bill on federal deposit insurance funds and on the agencies that administer those funds. The terms of the bill apply to all federal bank and thrift regulatory agencies, with the exception of the Federal Reserve Board. Consequently, the operations of the Federal Deposit Insurance Corporation (FDIC), Federal Home Loan Bank Board, and the National Credit Union Administration (NCUA) will be affected. This may further impact the State's training program, as the FDIC and the NCUA also subsidized State examiner training in previous years, although not to the extent that the Federal Home Loan Bank Board did.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1934-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 74-86 Consumer Protection and Commerce on H.B. No. 2035-86

The purpose of this bill is to amend Chapter 461, Hawaii Revised Statutes, by adding three new sections to provide the powers and duties of the Board of Pharmacy, to authorize disciplinary actions by the Board, and to provide that remedies or penalties provided by Chapter 461, Hawaii Revised Statutes, are cumulative to each other.

The new section on "Disciplinary Action" incorporates language contained in Section 461-4, Hawaii Revised Statutes, and also provides the following: (1) empowers the Board to fine a licensee, as well as to revoke or suspend a license; (2) sets forth additional causes for which disciplinary sanctions shall be imposed on a licensee; and (3) provides that disciplinary proceedings against a licensee shall be in accordance with Chapter 91, Hawaii Revised Statutes. The rationale for inclusion of a fine as a disciplinary sanction is to provide another form of penalty when suspension or revocation may not be appropriate or warranted. Expanding the causes for disciplinary action further protects the public from unsafe or improper actions by a pharmacist or pharmacy. Requiring that disciplinary proceedings be conducted in accordance with Chapter 91, Hawaii Revised Statutes, is consistent with other board and commission procedures in handling contested and disciplinary cases.

The new section relating to "Cumulative remedies" has been added to clearly set forth to the licensees that they can be pursued under any one or all of the penalty provisions for violation of Chapter 461, Hawaii Revised Statutes.

Several sections in Chapter 461, Hawaii Revised Statutes, have been restated without substantive change to set forth sections in their proper format; to divide long and involved sections into subsections; to provide clarity; and to remove gender references, indefinite modifiers and obsolete provisions.

Your Committee received favorable testimony from the Board of Pharmacy (Board). The Board testified that Section 461-6, Hawaii Revised Statutes, provides that applicants for licensure shall pass an examination covering subjects relating to the practice of pharmacy, with a general average score of not less than seventy percent. To implement this section, the Board administers three separate examinations: the National Association of Boards of Pharmacy Licensure Examination (NABPLEX), the Federal Drug Law Examination (FDLE), and the State Jurisprudence Examination. The scores for all three examinations are combined together and one single average score is calculated to determine the applicant's performance on the licensure examination. The Board has long been concerned with the statutory requirement that a general average be used as a

passing score. On many occasions it has observed that applicants pass the licensure examination by achieving a high score on one of the examinations which offset lower scores received on the other two examinations. The Board believes that the examination requirement should be such that a minimum passing score should be established for each of the three examinations which comprise the licensure examination, and that the general average score provision be repealed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2035-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 75-86 Consumer Protection and Commerce on H.B. No. 2042-86

The purpose of this bill is to amend Chapter 463E, Hawaii Revised Statutes, relating to Podiatrists. This bill will add a requirement for a written test of clinical competency; delete references to the amounts of fees and clarify the authority of the Director of the Department of Commerce and Consumer Affairs to establish fees through rules; make explicit the grounds for denial of licenses; accelerate reporting requirements of disciplinary actions; establish the limits for fines; clarify that Chapter 91, Hawaii Revised Statutes, relates to hearings for license denial; clarify that remedies and penalties are cumulative; and eliminate references to gender, update language and make other housekeeping changes.

Your Committee, upon receiving favorable testimony from the Board of Medical Examiners (Board) of the Department of Commerce and Consumer Affairs, has made the following findings:

1. In report no. 85-5, dated January 1985, the Legislative Auditor recommended that a written test of clinical competency be substituted for the oral-practical examinations being administered to license applicants. This recommendation was agreed to by the Board and adopted by the Senate Committee on Consumer Protection and Commerce. The provision for a written test of clinical competency, however, was omitted from Act 125 when S.B. No. 217, S.D. 1, H.D. 1, was enacted. This bill is intended to remedy that omission.

2. The Director of Commerce and Consumer Affairs is authorized by Section 26-9(K), Hawaii Revised Statutes, to adopt application, license and renewal fees through rules, pursuant to Chapter 91, Hawaii Revised Statutes. These fees for podiatrists were incorporated in Chapter 53, Hawaii Administrative Rules, on June 7, 1985. Accordingly, Section 463E-5, Hawaii Revised Statutes, has been amended to avoid duplication and contradictory fee amounts.

3. Section 463E-6, Hawaii Revised Statutes, has been amended to clarify the Board's power to deny a license. It will also make the proposed expanded grounds for disciplinary action against a licensee, including the requirement of prompt reporting, apply similarly to the denial of a license.

4. The existing grounds for disciplinary action under Section 463E-6(a)(16), Hawaii Revised Statutes, with respect to reporting disciplinary actions in other jurisdictions, is vague with respect to where and when the report must be filed. Accordingly, the amendments to this section will clarify the requirement of reporting prior disciplinary actions.

5. Section 463E-6(a)(17), Hawaii Revised Statutes, has been added to provide that all statements and documents submitted to the Board must be true and must not contain any material misstatement or omission of fact.

6. Section 463E-6(b)(3), Hawaii Revised Statutes, has been amended to provide that fines shall be no less than \$500 and no more than \$5,000 for each violation.

7. Section 463E-7, Hawaii Revised Statutes, has been amended to provide the right to a hearing to applicants whose applications are denied.

8. Section 463E-11, Hawaii Revised Statutes, has been amended to provide that remedies or penalties provided by this Chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

9. Housekeeping changes have also been made to Sections 463E-3, 463E-4 and 463E-5, Hawaii Revised Statutes, to eliminate gender references, obsolete terms and indefinite modifiers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2042-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 76-86 Agriculture and Judiciary on H.B. No. 1967-86

The purpose of this bill is to enhance the enforcement of the Hawaii Meat Inspection regulations by authorizing Department of Agriculture inspectors to issue citations and summons, and by generally broadening their enforcement capabilities. This bill also repeals Section 159-47, Hawaii Revised Statutes, which requires inspectors to certify the brand records of slaughtered animals.

Your Committees find that enforcement actions presently available under chapter 159 are limited to the court injunction process or criminal prosecution. While these avenues are viable and necessary when responding to serious violations such as willful adulteration, they do not provide a practical means of addressing less serious violations. The citation and summons capability will provide the department with an efficient and expedient means of enforcing meat inspection regulations, and will afford the kind of meaningful, immediate response to violations that is not currently available. Such capability serves to better protect the consumer.

Your Committees also find that the present responsibility of meat inspectors to inspect the brand on each animal that is slaughtered minimizes the time available for actual inspection, and should be removed from the inspectors' duties. Brand inspection responsibilities are addressed in another Administration measure, House Bill 1968-86, presently pending in the Legislature.

Your Committees have amended page 3, line 8 of this bill by deleting an erroneous reference to "quarantine law", and inserting instead the language, "provision of this chapter".

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 1967-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1967-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 77-86 Agriculture and Judiciary on H.B. No. 1969-86

The purpose of this bill is to enhance the enforcement of the Hawaii Poultry Inspection Act (Chapter 161, Hawaii Revised Statutes) by authorizing departmental poultry inspectors to issue citations and summons for violations, and by clarifying language within the Hawaii Poultry Inspection Act.

Your Committees find that this measure will provide inspection personnel with a more efficient means of enforcing poultry inspection regulations by allowing less serious infractions and violations to be handled through the citation and summons procedure rather than the lengthy and costly court injunction process.

Your Committees have amended this bill by deleting from line 8 on page 3 of the bill the erroneous language "quarantine law" and inserting in its place "provision of this chapter".

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 1969-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1969-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 78-86 Agriculture and Judiciary on H.B. No. 1973-86

The purpose of this bill is to extend the applicability of Section 142-30, "Form of summons and citation", to all parts of Chapter 142, Hawaii Revised Statutes, rather than to just Part I. This bill also clarifies the language of Section 142-30.

Your Committees agree that the issuance of summons and citations should be applicable to all parts of Chapter 142, Hawaii Revised Statutes.

Your Committees have made a technical, non-substantive amendment to this bill to correct a typographical error.

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 1973-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1973-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 79-86 Agriculture and Judiciary on H.B. No. 1970-86

The purpose of this bill is to make all four parts of Chapter 142, Hawaii Revised Statutes, relating to animals, brands and fences, subject to the penalty provisions of Section 142-12, if a specific penalty is not otherwise provided. This bill also amends Section 142-12 by providing increased penalties for persons convicted of repeated violation of this Chapter.

Your Committees believe that this bill will encourage greater compliance with the provisions of this chapter.

Your Committees have amended this bill as follows:

(1) Subsection (b) on line 11 of page 2 has been amended by deleting the ambiguous language "...found to be repeatedly in violation of this chapter within a five year period..." and replacing it with the language, "... who has been convicted of a violation of this chapter more than three times within a five-year period...".

(2) Amending the imprisonment provisions of paragraphs (1), (2), and (3) of subsection (b) to read as "five" years rather than "ten" years.

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 1970-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1970-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 80-86 Agriculture and Judiciary on H.B. No. 1975-86

The purpose of this bill is to clarify the language and to make it applicable all parts of Chapter 142, HRS.

Your Committees find that this amendment will standardize the enforcement procedure and would apply to all parts of Chapter 142, HRS.

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 1975-86, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 81-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2014-86

The purpose of this bill is to amend Section 183D-61, Hawaii Revised Statutes, to specify that agriculture farmers and aquaculture farmers are considered co-equal in having similar opportunities to protect their crops from marauding birds.

According to testimony by the Department of Land and Natural Resources (DLNR), aquafarms in Hawaii have long been plagued by predatory birds, such as the black-crowned night heron (auku'u). The problem of aquacultural crop loss has reached catastrophic proportions, such as that experienced by Hawaii's largest prawn farm which has had a conservatively estimated loss between \$70,000 and \$100,000 a year. Such loss has significantly contributed to the recent closing down of the pond production portion of this farm for economic reasons.

Your Committee is in agreement that this administration bill will assist aquaculturists in controlling the destruction of their crops by various species of wild birds, game birds, and game mammals. However, the purpose of this bill is not to be construed as a permission to indiscriminately destroy species that are considered rare, threatened, or endangered, even though some aquaculturists consider them pests. Protection of these rare, threatened, or endangered species is statutorily mandated, and their presence in and around aquafarms cannot be reason for invoking authority by the Department of Land and Natural Resources to destroy these species.

Your Committee has amended the bill by changing the word "and" to "or" on lines 2 and 6 on page 2. This corrects a drafting error.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2014-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2014-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 82-86 Employment Opportunities and Labor Relations on H.B.
No. 1750-86 (Majority)

The purpose of this bill is to clarify that discrimination based on an individual's accent is an unlawful employment practice.

Current law prohibits discrimination in employment on the basis of race, sex, age, religion, color, ancestry, physical handicap, marital status, and arrest and court record. This bill would specifically extend similar protection to individuals with an accent, unless it can be shown that the accent will deter the individual from performing the work.

The Department of Labor and Industrial Relations testified that this measure was not necessary because it currently interprets the prohibition on discrimination based on ancestry or national origin to include individuals with an accent. The Chamber of Commerce also expressed a similar opinion.

However, your Committee received testimonies from the Oahu Filipino Community Council, the Maui Filipino Community Council, the Susannah Wesley Community Center, the Catholic Immigration Center, and the Inter-Agency Council for Immigrant Services in support of this bill. They testified that the bill was necessary to ensure that individuals who speak with an accent are protected from discriminatory employment practices.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 1750-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 83-86 Employment Opportunities and Labor Relations on H.B. No.
2144-86

The purpose of this bill is to appropriate \$1,500,000 for fiscal year 1986-1987 to supplement federal funds received under the federal Job Training Program. The funds are to be used to provide training to any resident of the State who is economically disadvantaged or unemployed, a dislocated worker, a senior citizen age 55 or older, and such other purposes as the Director of Labor and Industrial Relations finds will carry out the purpose of this program.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2144-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 84-86 Ocean and Marine Resources on H.B. No. 1708-86

The purpose of this bill is to establish a statewide kapu system to protect and manage Hawaii's ocean resources by appropriating funds for this purpose.

The Department of Land and Natural Resources testified in support of this bill and provided information on its Waikiki-Diamond Head Shoreline Fisheries Management Area pilot project. The Department stated that this project was successful in restoring depleted stocks of shellfish, finfish, and other forms of edible sea life.

Other testimony presented to your Committee overwhelmingly supported the need to expand the concept of alternating open-close cycles to other coastal waters of the State in a deliberate attempt to reverse stock depletion trends wherever this condition is found to have reached depletion levels serious enough to warrant intervention or to prevent such conditions from occurring.

Your Committee finds that rapidly increasing pressures on the fishery resources of the main Hawaiian Islands, and particularly along the coastline of Oahu, is beginning to seriously threaten this valuable resource and a call for action is deemed both appropriate and necessary.

Your Committee further finds that while the Aquatic Resources Division of the Department of Land and Natural Resources has a desire to more fully implement fishery conservation measures such as the establishment of additional Shoreline Fisheries Management Areas, it is in need of additional funding to further develop and implement a statewide program that would serve to effectively manage our precious shoreline fisheries.

At the same time your Committee is concerned that traditional and customary native Hawaiian fishing rights are preserved. To that end, your Committee makes clear that this bill is not intended to diminish any native rights currently provided for by State law.

Your Committee amends this bill to direct the Board of Land and Natural Resources to preserve the traditional and customary fishing rights of native Hawaiians by creating a new Section 2. The present Section 2 is now Section 3. Your Committee amends Section 3 to appropriate the sum of \$200,000 to carry out the purposes of this bill.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1708-86, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 1708-86, H.D.1.

Signed by all members of the Committee.

SCRep. 85-86 Ocean and Marine Resources on H.B. No. 1710-86

The purpose of this bill is to test the feasibility of developing artificial habitats for Hawaii's bottomfish by appropriating funds for a pilot project utilizing land based boulders.

The Department of Land and Natural Resources testified in support of this measure, as did the Hawaii Transportation Association, R.H.S. Lee, Inc., The Hawaii Council of Diving Clubs and the GracePacific Corporation.

The Department indicated that although it has been involved in nearshore (shallow) water artificial enhancement activities since the 1950's, it is presently undertaking a pilot project to enhance the habitat of deepwater bottomfish species due to increasing fishing pressures on the bottomfish population. Your Committee finds that while all islands may be under these type of pressures, Oahu suffers more acutely than the rest because of its higher concentration of fishing interest

groups, both commercial and recreational. Appropriately, the Department's first efforts are directed to establishing a deepwater bottomfish artificial reef enhancement project offshore of Oahu.

As in other places which depend on ocean resources, Hawaii is beginning to feel the pressures of an increasing demand for and a diminishing supply of its bottomfish resources. As supply decreases, competition for limited sources heighten, promoting undesirable human reaction and behavior, which, if left unchecked or unresolved, leaves its irreversible mark on our entire eco-systems.

Artificial reef development in Hawaii has been given serious consideration and study by your Committee. Your Committee finds that the National Oceanic and Atmospheric Administration (NOAA) under the NOAA Technical Memorandum NMFS OF-6 has published the National Artificial Reef Plan (the Plan) containing information that would prove most valuable in the development of our own plans to establish an artificial reef program in Hawaii. Due in large part to earlier efforts throughout the nation and in other countries, Hawaii will be able to use the Plan as a guide so as to make maximum use of the mistakes of others. These mistakes include lack of forethought and experience in constructing artificial reefs, use of inappropriate and sometimes harmful materials, poor site locations and costly approaches. The Plan can provide specific guidelines to aid Hawaii in addressing and dealing with mitigating potentially harmful outcomes.

To that end, your Committee directs the Department to use as a guide, the National Artificial Reef Plan published in 1984 by NOAA, and to give special attention to the following contained in the Plan:

Design	p. 38
Criteria.	p. 38
(1) Openness	p. 38
(2) Surface Area	p. 38
(3) Profile.	p. 39
(4) Footprint (Dispersion)	p. 39
(5) Interstitial Space	p. 40
(6) Configuration	p. 40
(7) Orientation	p. 41
(8) Color and Contrast	p. 41
(9) "Fishability".	p. 42
(10) Flexibility	p. 42

Your Committee has had an indepth discussion on the types of materials that are most suitable and appropriate for use in the construction of artificial reef structures and finds that the Plan makes reference to "materials of opportunity" which includes ships and other vessels, concrete, oil and gas structures, tires, rock and stone, and miscellaneous high density materials such as solid blocks made from by-products of coal combustion (fly ash). These types of materials, as compared to manufactured or fabricated materials, are considered attractive to reef builders because of its low initial costs, notwithstanding that preparation and transportation costs might be high and add significantly to the overall cost of building the reefs. For purposes of this bill, materials of opportunity shall be limited to rock, stone and concrete in order to minimize the possibility of debris that might add to the polluting of our ocean environment. Moreover, there is a need to ensure that even with these materials of opportunity allowed through this bill, these materials shall meet the biological, physical and chemical conditions necessary to preserve the ecological integrity of our ocean environment. Finally, there is a need to give special attention to expand our research effort in the use of these materials in order to determine the most desirable types of materials available and suitable for artificial reef structures.

Your Committee amends this bill to read as follows:

page 1, Section 1, line 12:
 "Materials of opportunity may provide the submerged structures necessary to..."

page 2, Section 1, lines 1 and 2:
 "appropriating funds for a pilot project utilizing materials of opportunity."

page 2, Section 2, line 4:
 "revenues of the State of Hawaii the sum of \$1.00 or so..."

page 2, Section 2, line 6:

"pilot project which utilizes materials of opportunity limited to rock, stone or concrete..."

page 2, Section 2, line 7, add:

"materials of opportunity shall meet the biological, physical and chemical conditions necessary to preserve the ecological integrity of our ocean environment."

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1710-86, as amended herein, and recommends that it pass second reading and be referred to the Committee on Finance in the form attached hereto as H.B.No. 1710-86, H.D.1.

Signed by all members of the Committee.

SCRep. 86-86 Judiciary on H.B. No. 1823-86

The purpose of this bill is to compensate victims of certain crimes and providers of services under the Criminal Compensation Act and provide appropriations to replenish the fund from which payment of awards have already been made.

Your Committee recognizes the value of this program to protect the State's residents and visitors at least in part, from the consequences of criminal acts. Since its inception the program has awarded a total of \$4,539,637.09 to 3,821 persons whose claims have been approved.

The fund has limited funds for immediate disbursement, however, in 1985 as in many other years, all of this money has been used to compensate 403 victims and providers who received \$489,112.09. The appropriation for both replenishing the fund and also providing payment to victims and providers are contained in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1823-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 87-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2201-86

The purpose of this bill is to provide funding to the Department of Health to continue development of the Groundwater Protection Program and for the development of a systematic groundwater monitoring strategy.

Your Committee received testimony from the Department of Health and from the City and County of Honolulu's Board of Water Supply, both in support of the bill. Your Committee is in agreement that a strong monitoring and enforcement program, as well as a risk assessment program is in order to assure non-contamination in Hawaii's groundwater.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2201-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 88-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2209-86

The purpose of this bill is to appropriate \$25,000 in support of the Main Street Task Force.

The Main Street program, developed in 1977 by the National Trust for Historic Preservation and based on a private-public partnership, is a self-help program of town redevelopment. It emphasizes the creation of a positive, marketable identity

for a town through unified design, management, and promotion by the town's own community leaders and residents. The Main Street Task Force is responsible for the implementation of the program's incremental development plans. Last year the Legislature appropriated \$25,000 in support of the Task Force, and additional funds were received from private donors.

Your Committee received testimony from coordinators of various Main Street programs throughout the State. They testified to the success of their programs and expressed the need for more than \$25,000 to support all of them on Kauai, Maui, and the Big Island. Your Committee is in agreement that \$50,000 is sufficient to carry out the purpose of this bill. The appropriate amendment to this bill has been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2209-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2209-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 89-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2619-86

The purpose of this bill is to sponsor a promotional tour by a delegation from Hawaii to England to commemorate the 100th anniversary of Queen Kapiolani's royal visit to England and her participation in Queen Victoria's Golden Jubilee.

Your Committee received testimony in support of this bill. The promotional tour would stimulate European awareness of and appreciation for Hawaii's cultural history and unique relationship with England. Your Committee is of the opinion that the tour would be in the best interest of the spirit of aloha and the people of Hawaii.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2619-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 90-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 2200-86

The purpose of this bill is to establish State-funded permanent positions in the Drinking Water Protection Program.

Your Committee finds that the present Program is heavily dependent on federal funds. Reductions in grant amounts have already taken place, and more reductions in the level of federal funding are anticipated. Your Committee is in agreement that the passage of this bill will prevent any substantial reduction in current levels of drinking water activities.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2200-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 91-86 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1704-86 (Majority)

The purpose of this bill is to provide for the incremental purchase of Waipio Valley from the Bishop Museum.

Your Committee finds that the Bishop Museum owns approximately 600 acres of Waipio Valley lands and that the Valley contains many historic and cultural landmarks which should be preserved for posterity. Your Committee also finds that the Bishop Museum does not have the necessary financial resources to do an adequate job of preserving the many historic and cultural landmarks so important

with the intent and purpose of H.R. No. 14 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 94-86 Water, Land Use, Development and Hawaiian Affairs on H.C.R.
No. 13

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development (DPED) to develop and recommend to the Legislature a five-year foreign trade action plan to expand and enhance further the activities of the International Service Branch.

According to testimony by DPED, the International Service Branch intends to sponsor a conference on "Internationalism as a Developing Industry for Hawaii" during the summer of 1986. The conference will explore alternative international futures for Hawaii and receive public input and guidance for developing and prioritizing objectives and proposed activities for a five-year foreign trade action plan.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 13 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 95-86 Water, Land Use, Development and Hawaiian Affairs and
Planning, Energy and Environmental Protection on H.B.
No. 2163-86

The purpose of this bill is to require the Hawaii Community Development Authority (HCDA) to identify and establish an inventory of all underground storage tanks in the Kakaako Community Development District which contain hazardous substances, and to inform owners of properties proposed for development of any existing storage tanks on the project sites.

Your Committees find that many underground storage tanks are located in the Kakaako area. An inventory of these tanks will significantly prevent accidents from occurring as redevelopment projects require excavation and demolition. Leakage or spillage of potentially toxic or hazardous materials will not therefore endanger lives and properties in the area.

Your Committees received testimony from HCDA estimating preliminary costs for conducting the inventory in the Kakaako area within a range between \$15,000 and \$20,000. Your Committees are in agreement that an appropriation of \$15,000 should be added to this bill. A new SECTION has therefore been inserted to this effect.

Your Committees have also made some technical changes to the bill, including renumbering of SECTIONS and, in the last SECTION, effective date of July 1, 1986.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection are in accord with the intent and purpose of H.B. No. 2163-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No 2163-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 96-86 Ocean and Marine Resources on H.B. No. 1737-86

The purpose of this bill is to authorize the issuance of up to \$2 million in special purpose revenue bonds to assist Cyanotech Corporation in its development of microalgae projects in the County of Hawaii.

Your Committee received testimony in support of this bill from Mr. Jack P. Huizingh, Executive Director of the Natural Energy Laboratory of Hawaii; Linda

Rosehill, Deputy Director of the Department of Planning and Economic Development; Mr. John Corbin, Director of the State Aquaculture Development Program; Mr. Gerald Moore, Deputy Managing Director of the County of Hawaii; and Mr. Dan Anderson and Attorney Wendell K. Kimura, both representing Cyanotech Corporation. Last month, your Committee also conducted a site visit to Keahole Point on the Big Island to discuss details of the project with representatives from Cyanotech Corporation.

Based on the testimony as well as the Big Island meeting, your Committee finds that Cyanotech's proposal will enhance the State's interest in encouraging the development of new industries thereby generating new tax revenues and employment. Your Committee also finds that because Cyanotech plans to construct a second microalgae facility in the Kau District of the Big Island, additional funds would be required to ensure its successful completion. Accordingly, your Committee has amended the bill by increasing the authorization of special purpose revenue bonds from \$2 million to \$3 million. Your Committee has further amended the bill by replacing the phrase, "at the Natural Energy Laboratory of Hawaii, or elsewhere" on page 2, line 18 and on page 3, lines 3-4 with the phrase, "within the County of Hawaii" in order to resolve concerns about the need to specify a specific site for the project. Your Committee has also deleted the last sentence in the first paragraph on page two, relating to the Natural Energy Laboratory, with the following statement: "Cyanotech Corporation also plans to develop facilities in the Kau District in the County of Hawaii". Finally, your Committee has also made some technical, non-substantive amendments to the bill to correct grammatical errors.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1737-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1737-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 97-86 Agriculture on H.B. No. 2726-86

The purpose of this bill is to appropriate \$25,000 to conduct a program to develop agricultural leadership programs in the State.

Your Committee finds that Hawaii's agriculture future must include ventures into new crops and products. For these ventures to succeed, Hawaii must develop leaders who have been adequately prepared to accept the emerging challenges.

Your Committee also finds that the selected participants are involved in an intense two-year leadership training program. Seminars are conducted on information and experiences centered around human relationships, communications, economics, fiscal and monetary policies, government and political processes, social-cultural understandings, environmental concerns, taxes, trades, and other issues having impacts on agriculture.

Your Committee further finds that this training will strengthen and expand leadership within our agricultural community and heighten public awareness of agriculture in our State.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2726-86, and recommends that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 98-86 Agriculture on H.B. No. 2300-86

The purpose of this bill is to appropriate \$100,000 to be matched dollar-for-dollar by private contributions for the promotion of papayas.

Your Committee finds that since utilizing the double dip hot water fruit fly disinfestation treatment, the papaya industry has encountered a variety of problems, ranging from a high cull rate of fruit to meet the quarantine treatment's ripeness requirement, to "hard" fruit on the retail shelf.

Your Committee finds that budgetary limitations, poor quality fruit in early 1985, and a general reluctance by the retailers to purchase and promote papaya, forced the industry to cut back its 1985 promotional activities.

Your Committee further finds that the industry must regain its market by attracting consumers to high quality fruit. The detrimental effects of a continual decline or loss of this industry would be severe to the economy of the State.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2300-86, and recommends that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 99-86 Agriculture on H.B. No. 1968-86

The purpose of this bill is to add a new section to the law to require the owner of animals being transported to complete a certificate declaring information on ownership, origin and destination of shipment, numbers, description, brands and consignee.

Your Committee finds that this will tend to curb rustling which causes substantial economic loss to the industry. Most western states require strict brand inspection prior to the sale or transportation of animals.

Your Committee also finds that it provides the opportunity to inspect livestock shipments not destined for a licensed slaughterhouse. In addition, this law may resolve the insidious problem of theft and will strengthen the livestock disease control program.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1968-86, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 100-86 Finance on H.B. No. 2395-86

The purpose of this bill is to conform the Hawaii income tax law to the Internal Revenue Code.

House Bill No. 2395-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill, in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less than meaningful.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2395-86, as amended herein, and recommends that it be recommitted to the Committee on Finance for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2395-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 101-86 Consumer Protection and Commerce 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.

H.B. No. 2845-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, primarily for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2845-86, as amended herein, and recommends that it be recommitted to the Committee on Consumer Protection and Commerce for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2845-86, H.D. 1.

Signed by all members of the Committee except Representatives Bunda, Andrews, Apo, Menor, Tom, Jones and Medeiros.

SCRep. 102-86 Consumer Protection and Commerce on H.B. No. 2033-86

The purpose of this bill is to amend Chapter 454D, Hawaii Revised Statutes, to add a new section to provide for powers and duties of the Director of Commerce and Consumer Affairs, and to amend Chapter 454D to clarify the registration exemptions, to provide for automatic termination of the registration when a bond is not kept active and to clarify the provision on cumulative penalties.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department) and the Hawaii Association of Realtors. The Department submitted the following testimony in support of this bill:

1. Presently there is some confusion with Section 454D-2(1), Hawaii Revised Statutes, in that it appears to exempt all real estate brokers and salesmen who provide collection services. The Department believes that the section should be clarified to exempt brokers and salesmen who provide collection services, only if services are incidental to a real estate transaction or if there is an errors and omissions policy in effect which provides coverage for activities relating to collection and mortgage services.

2. Presently, Section 454D-2(3), Hawaii Revised Statutes, provides an exemption to Housing and Urban Development (HUD) approved lenders. The Department learned that while an institution may receive HUD approval, this does not necessarily mean consumers are protected in total by HUD regulations. In fact, HUD will only investigate and pursue resolution of consumer complaints for HUD-approved lenders that service Federal Housing Administration (FHA) and Veterans Administration (VA) loans. A HUD-approved lender may also service other types of loans such as conventional loans, but HUD will not cover any activities related to these loans. Therefore, the consumer with a conventional loan which is serviced by a HUD-approved lender has no consumer law in place which protects its interest. To ensure that such clients are accorded some form of protection, the exemption is clarified so that only HUD-approved lenders which service FHA and VA loans are excluded from the provisions of Chapter 454D, Hawaii Revised Statutes. Those not qualifying under this exemption shall be subject to all registration requirements.

3. Presently, Section 454D-3, Hawaii Revised Statutes, requires that mortgage and collection servicing agents covered by Chapter 454D, Hawaii Revised Statutes, shall keep a surety bond current and in effect. Section 454D-3 has been amended by adding the automatic suspension of the registration should the registrant have the bond cancelled or terminated, with the possibility of termination of the registration should the registrant fail to activate the bond to a current and valid status. This has been set forth because it is necessary for the bonding requirement to be maintained for the protection of the consumer and, if cancelled, the registrant would be prevented from injuring consumers further.

4. Section 454D-7, Hawaii Revised Statutes, has been amended to restate the language for ease of comprehension by the layman. The new language has been copied verbatim from other licensing statutes.

5. A new section entitled "Powers and duties of the director" has been added to set forth the responsibility and powers of the officer responsible for regulation and enforcement of Chapter 454D, Hawaii Revised Statutes. The

provisions are identical to that in other statutes where the Director of Commerce and Consumer Affairs has the responsibility for enforcement and regulation of the licensing or registration program.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2033-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 103-86 Consumer Protection and Commerce on H.B. No. 2037-86

The purpose of this bill is to amend Chapter 452, Hawaii Revised Statutes, by adding new sections to authorize the Board of Massage of the Department of Commerce and Consumer Affairs to take disciplinary actions and to establish a provision for cumulative remedies, to provide the Department the right to apply for an injunction, and to delete gender references and indefinite modifiers.

The new section which authorizes disciplinary actions provides additional grounds for such actions and provides for an administrative fine to further protect the public's health and welfare and to provide another form of disciplinary sanction. The new section on cumulative penalties will clarify to licensees that they can be pursued under any one or all of the provisions which provide penalties for violation of the law. The new section entitled "Right of injunction" is to provide the Department the right to apply to a court of competent jurisdiction for an injunction to restrain any violation of this Chapter. This bill will also delete gender references and indefinite modifiers without attempting to make substantive changes.

The bill amends Section 452-13, Hawaii Revised Statutes, to delete the good moral character certification requirement because the 1982 Legislative Auditor's evaluation of the Department stated that this requirement was unnecessary, and to delete the Board's option to waive examinations. The license requirements from state to state vary greatly and there is no national examination for the massage industry. Many states have been reluctant to provide a copy of their examinations for the Board to review in order to determine if it is comparable or more stringent than the exam which is administered in our State.

The bill also amends Section 452-14, Hawaii Revised Statutes, to provide the Board the option of seeking the outside help of either a consultant or testing agency to develop, prepare and administer the written examination. The bill also amends Section 452-17(a) to delete from subsection (a) the reference to deposit of examination fees to the general fund and to add a subsection (b) setting forth the manner of payment for the examination fee in the case where the Board contracts with a testing agency.

Your Committee received favorable testimony from the Board of Massage.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2037-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 104-86 Consumer Protection and Commerce on H.B. No. 2045-86

The purpose of this bill is to amend Section 91-14, Hawaii Revised Statutes, to allow the Department of Commerce and Consumer Affairs (Department) and its boards and commissions, pursuant to subsection 91-14(b), Hawaii Revised Statutes, to pursue the collection of any fine imposed on a licensee in the same manner as a civil judgment can be pursued.

Your Committee received favorable testimony from the Department. The Department testified that the Department and its boards and commissions assess fines as one form of sanction in disciplinary cases. Also these disciplinary cases are conducted pursuant to Chapter 91, Hawaii Revised Statutes, and respondents are given proper notification and an opportunity to be heard. Accordingly, fines which have been assessed as a penalty should be allowed to be fully enforced by the Department.

Your Committee also received testimony from the Hawaii Business League and the Hawaii Association of Realtors (Association). The Association testified that section 1 of the bill should be amended to provide that prevailing appellant shall be repaid the amount of the fine, plus interest equivalent to the rate the State collects on delinquent taxes and fines, and not two percent, as provided in the bill.

Your Committee, upon consideration, agrees that interest of two percent is unreasonable. Your Committee also finds that the creation of a "litigation fines fund" is unnecessary. Accordingly, your Committee has amended this bill by deleting the language on page 1, lines 15-16 and on page 2, lines 1-3.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2045-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2045-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 105-86 Consumer Protection and Commerce on H.B. No. 2110-86

The purpose of this bill is to amend Section 442-6, Hawaii Revised Statutes, to clarify the requirement that an applicant for a State chiropractic license must pass all parts of the National Board of Chiropractic Examiners' examination, to amend the examination grading system from percent to points, to amend the credit received for work experience from percent to points, to authorize the Board to contract for examination services with a testing agency, and to provide that the examination fee shall be paid directly to a contracted testing agency.

Your Committee received favorable testimony from the Board of Chiropractic Examiners. The Board testified that Section 442-6(d), Hawaii Revised Statutes, requires an applicant to pass a portion of the National Board of Chiropractic Examiners' examination in order to qualify to sit for the State Board's written and practical examination. However, Section 442-6(c) provides a waiver that a person who has passed the National exam need not take the Board's written exam. Accordingly, there has been confusion as to whether the waiver provision applies to a person having passed a portion of the National exam or the entire National exam.

The Board also testified that Section 442-6(c), Hawaii Revised Statutes, requires the Board to conduct both the practical demonstrations and written examination. Additional amendments to this subsection will provide the Board the option of seeking outside help from either a consultant or testing agency to develop, prepare and administer the examinations. The testing agency will develop the examination and periodically update it, provide references to examination questions to assist the applicants in their preparation for the test, and analyze test questions to determine their validity and reliability.

The Board also testified that present examinations are graded by percentage. This bill will amend the percent to a point system, which is an absolute score, whereas a percent system can and is generally rounded off to the next higher number.

The Board further testified that under Section 442-6(e), Hawaii Revised Statutes, the computation of credit given to out-of-state licensed chiropractors is "one-half per cent" for each year of work experience up to twenty years maximum to be added to each score or each subject area of the examination. This bill will amend the percent to points to conform with the proposed amendment of the grading system provided in Section 442-6(c).

Finally, Section 442-18, Hawaii Revised Statutes, has been amended to delete the obsolete reference to "government realizations" and to provide that all moneys received shall be paid to the Director of Finance to the credit of the general fund.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2110-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 109-86 Judiciary on H.B. No. 1990-86

The purpose of this bill is to appropriate funds from the general revenues of the State to satisfy claims for legislative relief, overpayment of taxes, judgments against the State, settlements and other miscellaneous claims.

Your Committee received testimony from the Department of the Attorney General and the Department of Taxation in support of this measure. Your Committee has adopted recommendations of the Attorney General and the Department of Taxation by amending the bill to include a list of tax refund cases and an additional claim settlement against the State.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1990-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1990-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Taniguchi.

SCRep. 110-86 Housing on H.B. No. 55

The purpose of this bill is to exempt holders of Individual Housing Accounts from a ten per cent tax liability being assessed to their account upon termination of their individual account, if they marry an individual who has had or currently has any interest in residential real property.

H.B. No. 55 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Without the amendment providing the substantive contents, members of the public hearing cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 55, as amended herein, and recommends that it be recommitted to the Committee on Housing, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 55, H.D. 1.

Signed by all members of the Committee except Representatives Leong and Lindsey.

SCRep. 111-86 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on H.B. No. 2273-86

The purpose of this bill is to clarify procedures for the management and use of agricultural parks in the State.

H.B. No. 2273-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committees have amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of H.B. No. 2273-86, as amended herein, and recommend that it be recommitted to the Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B.

2273-86, H.D. 1.

Signed by all members of the Committees.

SCRep. 112-86 Planning, Energy and Environmental Protection on H.B. No.
2838-86

The purpose of this bill is to effectuate the title of this bill.

H.B. No. 2838-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill, in the long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short form bill may not be helpful, and a notice thereof could be less than meaningful.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2838-86, as amended herein, and recommends that it be recommitted to the Committee on Planning, Energy and Environmental Protection for the purposes of holding a public hearing thereon, in the form attached hereto as H.B. No. 2838-86, H.D. 1.

Signed by all members of the Committee except Representatives Crozier, Say, Tajiri and Pfeil.

SCRep. 113-86 Agriculture on H.B. No. 2299-86

The purpose of this bill is to amend Section 165, HRS, to include, by express provision, processing and aquaculture operations within the protection from nuisance lawsuits afforded by the Hawaii Right to Farm Act.

Additionally, this bill amends the definition of nuisance to include claims designated as other than nuisance claims, but which meet the definition of nuisance in the Act.

Additionally, this bill clarifies the process of assessing the established date of operation for expansions of farming operations and includes a new definition of expansion to clarify what should be considered expansion.

Additionally, Section 165-4 is amended to change the conditions under which a farming operation can be declared a nuisance.

Your Committee finds that the Hawaii Right to Farm Act has not provided the protection from nuisance suits which was intended by previous Legislatures because processing operations essential to farming operations have not been expressly granted protection.

Your Committee also finds that aquaculture operations which are conducted on nonagriculturally zoned land should be protected from nuisance suits.

Your Committee also finds that the expanded definition of nuisance will protect farmers from nuisance lawsuits even though different nomenclatures are used for the claims, e.g. negligence, trespass or others.

Your Committee also finds that clarifying the definition of established date of operation will protect the expanding farm without limiting the rights of potential plaintiffs against the farm.

Your Committee also finds that the difficulty of establishing the proof of the farmer's defense under the present statute is ameliorated by the new element of proof set forth in this bill, without substantially affecting the plaintiff's rights.

Your Committee has made the following amendments to this bill:

- (1) Aquaculture operations are given the same treatment as processing

operations under the expanded definitions of farming operations, except that aquaculture operations on nonagriculturally zoned land do not have to form an integral part of other operations that otherwise meet the definition of farming operations.

(2) The proof of material change in the vicinity of farming operations has been deleted as an element of the farmer's defense.

(3) The exception to the farmer's defense has been changed to clarify that the previous determination of injuriousness to the public health may be made by either an appropriate State agency or a court of competent jurisdiction.

Your Committee on Agriculture concurs with the intent and purpose of H.B. No. 2299-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2299-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 114-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2850-86

The purpose of this bill is to effectuate the title of this Act.

H.B. No. 2850-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2850-86, as amended herein, and recommends that it be recommitted to the Committee on Water, Land Use, Development and Hawaiian Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. 2850-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 115-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 1927-86

The purpose of this bill is to create a master plan for the promotion and development of Hawaii as an international sports center.

Your Committee received testimony from the Department of Planning and Economic Development (DPED) and from the Athletic Department of the University of Hawaii. Both applauded the intent of the bill. DPED's testimony viewed the sports center as an attractive means for diversified economic development programs whereby Hawaii becomes a center in support of health-related sports industries, health-related restaurants and food stores, and other related businesses in tourism and transportation. DPED also presented data on economic benefits in other states where reputable sporting events have been held, generating significant cash flow into their economies.

The University's Athletic Department mentioned several potential problem areas in implementation of the bill's purpose. It recommended several amendments to the content of the proposed master plan, as follows:

(1) That paragraph (3) on lines 8-9, page 2, of the bill, be replaced by the following consideration:

"Developing a list of facilities needed to institute such a program including provision for housing and meals, for use of training rooms, weight rooms, and locker rooms, for services of trainers and doctors, and

for other related purposes";

(2) That paragraph (4) on lines 10-14, page 2, be replaced by the following consideration:

"Developing agreements with appropriate state agencies, as well as other public and private organizations, for use of their facilities and equipment to provide competitive opportunities, training, and assistance to athletes, giving special attention to matters of liability and insurance";

(3) That the following insertion be added to paragraph (5), on line 19:

"With due consideration to the eligibility rules of appropriate high school, collegiate, and other amateur organizations";

and

(4) That the word "establishment", in paragraph (7), on line 1, page 3, be replaced by "assistance".

Your Committee is also in agreement that a sum of \$100,000 should be appropriated for the purpose of the bill. That sum will enable DPED to contract for professional consulting services in developing the master plan which is described on pages 2-3 of the bill and which should further address concerns, raised by the University's Athletic Department, over potential problems in implementation of the bill's purpose.

Your Committee has amended the bill to include the four changes recommended by the University's Athletic Department. These proposed changes to be considered in the master plan would address the Department's concerns over potential problems in implementation of the bill's purpose. Your Committee has further amended the bill by adding the sum of \$100,000 to line 13, page 3, and by making some technical, non-substantive changes to the bill for purposes of style and clarity.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1927-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1927-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 116-86

Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2536-86

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$15,000,000 to assist Hanalei Power Company in acquiring and constructing a hydroelectric power plant and related facilities on the Hanalei River on Kauai.

Your Committee finds that the residents of Kauai are dependent primarily on oil-fired generation of energy supplied by Kauai Electric. Your Committee is in agreement with general State plans to encourage the goal of energy self-sufficiency through alternate energy resource development projects in order to reduce dependence on petroleum-based imports. Your Committee is of the opinion that the proposed Hanalei hydroelectric development project could help Kauai and its people to move toward the goal of energy self-sufficiency.

Your Committee is also cognizant of the economic potential of the project inasmuch as job creation, increased tax revenues, and a better quality of life are corollary to the purpose of the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2536-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

State.

The Hawaii Government Employees' Association, the University of Hawaii Professional Assembly (UHPA) and the Hawaii State Teachers Association (HSTA) testified in support of a State lottery, citing the growing community acceptance of lotteries nationwide and the additional revenues which have accrued to other states. While the HGEA maintained that lottery revenues should be placed in the general fund, the UHPA and HSTA expressed a preference that the funds be earmarked for educational purposes. The Handicapped Network, the Hawaii Center for Independent Living and the State Planning Council on Developmental Disabilities also testified in support of a State lottery provided that revenues be directed toward various human service programs impacted by federal spending reductions likely to occur during the next fiscal year.

The Honolulu Police Department and the Office of Prosecuting Attorney submitted testimony against a State lottery, citing various problems that might occur if a State lottery was put into effect. These include: an influx of the numbers racket, increased gambling and street crime, and various family and community problems related to compulsive gambling.

While in agreement with the intent of the bill to establish a State lottery, your Committees believe that further safeguards are necessary to ensure integrity, honesty and fairness in its operation. Your Committees have therefore made the following amendments:

1. Increased the number of lottery commissioners from five to seven and also increased the number of commissioners who may be of the same party from three to four.
2. Required that all decisions of the commission shall be made by a majority vote of the commissioners then in office.
3. Provided that no person who has been convicted of an offense under the Hawaii Penal Code or who falls under the purview of chapter 853 shall become a member of the lottery commission, a director or employee of the lottery, a lottery game retailer, a lottery contractor, or a lottery vendor.
4. Adopted the recommendation of the State Ethics Commission to provide that all professional, administrative, clerical and technical personnel employed by the State lottery be subject to the State Ethics Code.
5. Established that a violation of this chapter on lottery is a misdemeanor.

Your Committees have also made some technical, nonsubstantive amendments to the bill for purpose of style and clarity.

Your Committees on Public Employment and Government Operations and Judiciary are in accord with the intent and purpose of H.B. No. 307, as amended herein, and recommend that it pass Second Reading in the form attached here to as H.B. No. 307, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Anderson and Jones.
(Representatives Andrews, Apo and Menor did not concur.)

SCRep. 120-86 Health on H.B. No. 1764-86

The purpose of this bill is to exempt from the general excise tax law amounts received for services rendered and from prescription drugs sold by hospitals, medical clinics, and health care professionals.

Your Committee recognizes that the cost of health care has been skyrocketing and that there is great concern among the public about the high cost of keeping healthy. Health care is a necessity and whether the cost for such care should be incurred is usually not controllable by the individual needing it; thus, any reduction in health care cost should be of benefit to the general public.

Your Committee agrees that the general excise tax exemption provided in this bill should result in the reduction of health care costs. Your Committee, however, wishes to let it be known, as forcefully as possible, by those whose

receipts are to be exempted by this bill, that it is the intention of the Committee that the benefits be passed on to the public. There is no intention that the providers of the services be enriched in any way by the passage of this bill.

Your Committee is cognizant of the fact that enactment of this bill would result in the loss of approximately 18 million dollars in general excise tax revenues. It would appear reasonable to assume that the State would need to look at alternative sources of revenue to make up for the loss.

Your Committee has added a clarifying amendment on page 12, line 21, by adding between the comma and the word "or" the phrase "health care facilities that furnish medical or health care," and has further amended the bill on page 13, line 1, by adding after the word "including" the phrase "but not limited to."

The reasons for these two amendments are: first, to make it clear that skilled nursing facilities and intermediate care facilities are to be covered by this bill, and second, to clear up any ambiguity which may arise with respect to the types of services which are to be exempted under this bill.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1764-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1764-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 121-86 Health on H.B. No. 1770-86

The purpose of this bill is to permit the introduction in evidence of the existence of collateral sources in medical tort suits.

This bill provides that in any action for medical tort where the plaintiff seeks to recover damages for economic loss, evidence shall be admissible to establish that any past, future cost or expense will be indemnified by insurance (other than life), social security, workers' compensation, or employee benefit programs.

Your Committee agrees with the many who testified in favor of this bill that the Legislature should act to correct the problem which exists in the medical malpractice insurance field. At the same time, your Committee is also cognizant of the fact that the rights of injured parties should also be vigorously protected. Your Committee concludes that the bill as received strikes a balance between these interests, and is therefore worthy of its support.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1770-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Leong.

SCRep. 122-86 Health on H.B. No. 2466-86

The purpose of this bill is to appropriate \$150,000 out of the general revenues of the State for providing twenty-four hours a day, seven days a week, emergency services at the Waianae Coast Comprehensive Health Center at Waianae, Oahu.

The Health Center currently provides emergency room service from 8:00 a.m. until midnight Monday through Thursday, and 24 hours on weekends.

The Health Center serves a community comprised of approximately 35,000 people, and it operates one of the busiest emergency rooms in the State with approximately 8,200 encounter annually. Many emergencies occur during late night hours when no emergency medical care is available.

The Health Center's emergency room serves a low income, under insured patient population, and the economic base does not exist to support emergency room services on a fee-for-service basis.

Your Committee agrees that there is a need for twenty-four hours emergency

room service in the Waianae area and that such services can be provided most cost effectively by the Waianae Coast Comprehensive Health Center; therefore, approval of this request for an appropriation is recommended. However, since this request falls within the designation of purchase of services, your Committee is aware that the provisions of Chapter 42, HRS, must be complied with before the appropriation authorized by this bill can become effective.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2466-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 123-86 Health on H.B. No. 2199-86

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$350,000, or so much thereof as may be necessary, to relocate Saint Francis Hospital's Maui renal dialysis facility.

Saint Francis Hospital is the only provider of dialysis treatment on the island of Maui. Its facility on Maui was opened in 1975, in a small, unused structure on the grounds of Maui Memorial Hospital. The facility is now overcrowded and has deficiencies which are not correctable. This bill would permit Saint Francis Hospital to relocate its facility to another location on the grounds of Maui Memorial Hospital. The location would be supplied by the State of Hawaii.

The Department of Health suggested the bill be amended to provide that the appropriation be made as a grant-in-aid out of the general obligation bond fund rather than from the general fund of the State. Your Committee concurs with the recommendation and has amended the bill accordingly.

Your Committee on Health is in accord with the intent and purpose of H.D. No. 2199-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2199-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 124-86 Health on H.B. No. 1773-86

The purpose of this bill is to allow for periodic payment of judgments which are recovered in medical tort actions against health care providers.

Your Committee agrees that periodic payment of damages in these cases would be beneficial to both the judgment debtor and judgment creditor. In the case of the judgment debtor, a reduction in the total cost of litigation would be expected, and, the judgment creditor would not have to experience the strong possibility of having a lump sum payment being dissipated within a few years of the recovery.

While in agreement with the intent of the bill, your Committee believes that the requirements specified in the bill are for the most part unnecessary and are too restrictive of the discretion of the court. Your Committee believes that, since the facts of each case differ considerably from the others, it is best to provide the flexibility needed by granting the court discretionary powers in these cases. Therefore, your Committee has changed "shall" on page 1, line 6 to "may" and has deleted the last 3 sentences of subsection (a) and all of subsections (b), (c), (d), and (e).

Your Committee is also concerned about the provision terminating payment of damages upon the death of the judgment creditor or upon recovery from the injury for which judgment was obtained. Testimony was received to the effect that this provision would reduce the cost of litigation by preventing the judgment creditor's heirs from getting a windfall, thereby reducing the cost of malpractice insurance. It would appear, however, that the other side to this argument is that it would create a windfall for the judgment debtor, the insurance company in most cases. Furthermore, this particular provision could be the cause of additional lawsuits, creating more instability and uncertainty in this matter.

Your Committee agrees that once a judgment on the amount of recovery is

rendered, that amount, except on appeal, should remain undisturbed. Your Committee, accordingly, has amended the bill by deleting: "or upon the judgment creditor's death or recovery, whichever occurs first" on page 1, line 8-9.

Your Committee has also made some technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1773-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1773-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Leong.

SCRep. 125-86 Health on H.B. No. 1996-86

The purpose of this bill is to give the Director of Health the authority to regulate freestanding birthing facilities, adult residential care homes, and adult day health centers.

Presently, the Director has the authority to regulate almost all things, services, and institutions which need to be regulated for reasons of public health and safety. This bill would amend the law to extend that authority to cover adult residential care homes, freestanding birthing facilities, and adult day health centers.

The Director of Health testified that patients in these new types of facilities are clearly unable to protect themselves; thus, the obligation falls on the Department of Health to provide a protective care environment for them. In order for the department to do this, it needs a legislative mandate to make the authority as explicit as possible. This bill will do that.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1996-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 126-86 Public Employment and Government Operations on H.B. No. 1878-86

The purpose of this bill is to establish a State Fire Council administrator to plan, coordinate and manage the programs and activities of the Council. The administrator will be an employee of the Honolulu Fire Department (H.F.D.), which will provide clerical and other assistance necessary for the Council to carry out its responsibilities. The State Fire Council remains within the Department of Labor and Industrial Relations for administrative purposes; however, the fire chief of the Honolulu Fire Department will serve as chairperson of the Council. Annual reimbursement by the state to the county is mandated to cover the Council's operating costs.

Testimony was received in support of H.B. No. 1878-86 from the Honolulu, Maui, Kauai and Hawaii Fire Departments, the Hawaii Fire Chiefs Association (H.F.C.A.) and the Fire Marshals Association of North America. This bill remedies the situation created by the elimination of the State Fire Marshal's Office in July, 1979 by providing the Honolulu Fire Department with an administrative staff through which the Council can effectively manage and coordinate all federal, State, county and private fire related matters.

Since 1979, the H.F.D. gradually assumed responsibility for the activities and support functions of the Council. However, the three bureau batallion chiefs (fire prevention, training and fire alarm) administering the activities and support functions have found these to be time-consuming and disruptive to the bureaus' normal operations. The H.F.D. and the H.F.C.A. also maintained that the State Fire Council was intended to serve as State Fire Marshal, and that the services rendered by the Council benefit the entire State. Consequently, the Council should be provided an administrative staff, and the State should assume responsibility for funding its operation.

The provision of administrative staff to the State Fire Council should produce the following outcomes: 1) better coordination and assistance among the county fire departments; 2) improved fire protection and fire prevention services and 3) other programs to improve and maintain high quality fire safety services for the people of Hawaii.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1878-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 127-86 Human Services on H.B. No. 2121-86

The purpose of this bill is to amend section 246-29, Hawaii Revised Statutes, to provide standardization of the amount of household assets which is to be disregarded in determining the eligibility of applicants and recipients for financial assistance and Medicaid benefits.

Your Committee heard testimony in support of this bill from the Department of Social Services and Housing.

Under current law, the financial assistance asset disregard limit is computed on a graduated scale based on family size ranging from \$445 to \$1,000. Federal regulations allow states to standardize the limit at \$1,000. Standardizing the limit would provide equitable treatment to all families regardless of size and would improve the administration of the financial assistance program and prevent errors due to application of the multiple standards.

The bill would also amend the Medicaid resource limit, making it compatible with the limits of the federal Supplemental Security Income program. Currently, there is a discrepancy between the State standard and the one for SSI. Since Medicaid and SSI serve common recipients, it is reasonable that the two programs have the same limit.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2121-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 128-86 Human Services on H.B. No. 2124-86

The purpose of this bill is to allow for the release of information concerning overdue child support payments in excess of \$1,000 to consumer reporting agencies. The bill is also intended to bring Hawaii into compliance with recent federal mandates contained in P.L. 98-378.

The bill contains a provision affording the obligor an opportunity to contest the accuracy of such information. This bill further provides that any overdue child support under the amount of \$1,000 can be made available at the option of the State.

Your Committee heard testimony in support of the bill from Family Court, the Department of Social Services and Housing and the Commission on Child Support Enforcement.

Your Committee believes that passage of this bill will enhance the enforcement of child support orders and the collection of delinquent child support payments on behalf of the children of our State.

Your Committee has made a technical amendment on page 2, line 2, by adding a comma after "information", and deleting the parentheses on lines 2 and 3.

Your Committee Human Services is in accord with the intent and purpose of H.B. No. 2124-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2124-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Leong.

SCRep. 129-86 Human Services on H.B. No. 2125-86 (Majority)

The purpose of this bill is to provide the Family Court with the discretion to require, by order or decree, the posting of security to assure the payment of child support.

Your Committee heard testimony in support of the bill from Family Court, the Department of Social Services and Housing and the Commission on Child Support Enforcement.

Under P.L. 98-378, states are mandated to require, when appropriate, that the absent parents post security, bond, or give some other guarantee to secure payment of child support.

Your Committee believes that passage of this bill will enhance the enforcement of child support orders and the collection of delinquent child support payments on behalf of the children of our State.

Your Committee has amended this bill by inserting a new paragraph (c) to assure that the rights to due process are provided to obligors.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2125-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2125-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Leong.
(Representatives Bunda and Kiyabu did not concur.)

SCRep. 130-86 Housing on H.B. No. 2122-86

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

A capital appreciation bond is similar in concept to a savings bond, which is bought at a discounted price with a payoff of its full face value at maturity. During the period between its purchase at a discount and the maturity date, a capital appreciation bond accretes in value.

The principal of accretion is important, as a capital appreciation bond essentially increases in principal value rather than accruing interest. This has two ramifications: 1) such bonds are considered to bear no interest and 2) there are no regular payments on interest as is typical for bonds. Both of these technical deviations from the typical characteristics of bonds are addressed by the proposed amendments to section 356-213, HRS.

The value of capital appreciation bonds to the Authority is that they would enable the debt structure of a bond issue maturities to be weighted more heavily to the shorter, lower interest, serial bonds rather than the term bonds. This is accomplished by the fact that capital appreciation term bonds would enable a bond issues' cash flow to support additional shorter term serial bonds.

The benefit of the use of capital appreciation bonds to an eligible borrower under the Program is that there would be a savings in the borrower's mortgage rate of up to 0.25%. This improvement in yield over a conventional serial/term bond structure is achieved by issuing capital appreciation term bonds in a discounted amount equal to 7% to 10% of the total amount of bonds issued.

The value of capital appreciation bonds in lowering the interest cost on a bond issue has been recognized by most other state housing finance agencies. Hawaii Housing Authority is the only housing finance agency, to the Authority's knowledge, that is precluded by State statutes from utilizing capital appreciation bonds for such purposes as the Hula Mae Program.

The Hawaii Housing Authority special financial advisor testified that the issuance of capital appreciation bonds reduces the amount to debt outstanding over the life of the bonds since serial bonds are paid off more quickly.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2122-86, and recommends that it pass Second Reading and be referred to the

Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 131-86 Health on H.B. No. 2062-86

The purpose of this bill is to require all health insurance policies and medical service corporation contracts to include benefits for in vitro fertilization for achieving pregnancy.

Your Committee received testimony from several qualified witnesses who stated that many states now require the coverage of the costs of an in vitro procedure by health insurance companies and that several insurance companies now provide such coverage. One of the reasons for the providing of such health insurance coverage is that the in vitro fertilization procedure is no longer considered to be experimental.

Present practice appears to be that health insurance carriers provide every other infertility diagnostic test and treatment, including microsurgery, laparoscopy, and tuboplasty, among others. Your Committee believes the in vitro fertility procedure should be included with these other procedures as appropriate attempts at achieving pregnancy.

Your Committee, however, has amended the bill in the following respects:

1. The procedure shall be made available only on a one-time basis. The reason for this amendment is that the in vitro procedure is very expensive and, also, because without a definite limitation there could be abuses by those seeking to become pregnant;

2. "Abnormal male factors" is added as one of the medical conditions contributing to infertility; and

3. The term "spouse" is defined to mean a person who is legally married to the patient.

Your Committee has left blank for determination by the Committee on Consumer Protection and Commerce the number of days following the effective date of the bill when the requirements of the bill shall be made to apply to insurance policies.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2062-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2062-86, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Leong.

SCRep. 132-86 Higher Education and the Arts on H.B. No. 2463-86
(Majority)

The purpose of this bill is to include United Student Aid Funds as a "Claimant Agency" for the purpose of permitting the retention of State income tax refunds for persons who have defaulted on education loans.

Your Committee received testimony from Ms. Lorraine M. Teniya, Hawaii Educational Loan Program, and Mr. W. M. Ord, Vice-President, Bank of Hawaii, in support of the bill.

Your Committee recognizes that continuing availability of loans is predicated on an acceptable default rate, and finds this act necessary for deterrence of an excessive default rate.

Your Committee has made no amendments to this bill.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2463-86, and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 133-86 Higher Education and the Arts on H.B. No. 2321-86

The purpose of this bill is to appropriate \$500,000 for increasing graduate assistant stipends at the University of Hawaii.

The Dean of the Graduate Division of the University of Hawaii, testified in support of the bill.

Your Committee finds that graduate assistants' stipend awards have been insufficient, as they,

(a) are below parity with stipends awarded to students of mainland research universities, and

(b) do not correspond to faculty salary increases.

Your Committee recognizes the important role graduate assistants play in the higher education process and believes that these individuals should be adequately compensated.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2321-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 134-86 Higher Education and the Arts on H.B. No. 2523-86

The purpose of this bill is to authorize establishment of one position at Kauai Community College for electronics/computer science instruction, and to appropriate \$20,016 to provide funding for the position.

Testimony was received in support of the bill by Dr. Joyce Tsunoda.

Your Committee wishes to provide for instruction in electronics and computer science, subject to Kauai Community College's Educational Development Plan and overall system priorities.

Your Committee has made no amendments to the bill.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2523-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 135-86 Higher Education and the Arts on H.B. No. 2782-86

The purpose of this bill is to appropriate \$68,184 to fund three permanent instructor positions at the University of Hawaii at Hilo.

Testimony was received in support of this bill by Chancellor Ralph Miwa, University of Hawaii at Hilo.

Your Committee has made no amendments to this bill.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2782-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 136-86 Higher Education and the Arts on H.B. No. 2059-86

The purpose of this bill is to appropriate money for Bishop Museum.

Your Committee is aware that there is a proposal for the State to purchase Waipio Valley from the Bishop Museum. Proceeds from the sale would give the museum adequate operating capital for the foreseeable future.

However, in the event that the sale is not consummated, your Committee feels that a grant-in-aid is appropriate. Therefore, pending the outcome of the purchase proposal, your Committee has amended this bill to make an appropriation of \$1.00.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2059-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2059-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 137-86 Higher Education and the Arts on H.B. No. 2091-86

The purpose of this bill is to appropriate money to implement celebration activities throughout the State.

Testimony received by your Committee indicates that a \$20,000 grant is appropriate and your Committee has therefore specified an appropriation in that amount.

Your Committee on Higher Education and the Arts is in accord with the purpose and intent of H.B. No. 2091-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2091-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 138-86 Higher Education and the Arts on H.B. No. 2208-86

The purpose of this bill is to establish an Office of Student Recruitment which would provide information on, and recruit students to, the University of Hawaii at Hilo campus. Towards that end, an appropriation is requested for the hiring of staff and other necessary expenses.

Testimony was received from Chancellor Ralph Miwa, from the University of Hawaii at Hilo; and from Mr. Allen S. Konishi.

Your Committee finds that such an office would be an asset to the University's efforts in recruitment.

Your Committee amended this bill by inserting an appropriation amount of \$50,000.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2208-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2208-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 139-86 Transportation on H.B. No. 2464-86

The purpose of this bill is to provide an appropriation for plans and construction for drainage improvement on Farrington Highway in Waipahu, Oahu.

This bill provides for a \$350,000 appropriation out of the general revenues of the State of Hawaii, for plans and construction of drainage improvements to Farrington Highway from the vicinity of the property located at TMK 9-4-15:20 to Waipahu Depot Road.

The Department of Transportation submitted testimony in support of this bill. Testimony indicated that storm waters from ponding on the roadway causes a hazardous driving condition. This improvement will minimize the problem.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2464-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 140-86 Transportation on H.B. No. 2430-86

The purpose of this bill is to provide funding to study the creation of High Occupancy Vehicle (HOV) lanes on the State Highway System to mitigate the traffic impacts of future developments in Central and Leeward Oahu.

Your Committee received testimony from the State Department of Transportation indicating the need to study future transportation problems in the Central and Leeward Oahu areas. Among the problems discovered by the Department of Transportation were:

1. The cumulative effects of the traffic generated by all of these developments could seriously affect driving conditions along the State's Highway System.
2. The construction of any new highways to handle these traffic problems would probably encounter opposition because of high costs, scarcity of available land and significant social, economic and environmental impacts.
3. Further widening of existing highways to handle these traffic problems will run into the same kind of opposition and problems described for new highways.

In order to handle these traffic problems with minimal expenditures and to maximize use of existing facilities, especially during the peak traffic periods, the Department of Transportation is advocating use of HOV lanes which are capable of carrying more persons per hour than conventional highway lanes.

Your Committee is in agreement that the \$100,000 to be appropriated out of the general obligation bond funds with debt service costs to be paid out of the State highway fund is sufficient to conduct the study. The study will include:

1. All advantages of HOV Lanes.
2. All disadvantages of HOV Lanes.
3. Specific recommendations on how the HOV concept can be implemented.
4. Kinds of physical improvements that will be necessary.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2430-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 141-86 Transportation on H.B. No. 2429-86

The purpose of this bill is to provide funding to study the creation of a ride-sharing authority.

This bill provides a ridesharing authority be created to encourage commuting to and from work by means other than a motor vehicle occupied by one person. Your Committee is in agreement that the \$30,000 to be appropriated out of the general obligation bond funds with debt service costs to be paid out of the State highway fund is sufficient to conduct the study. Among the items to be covered in the study are:

1. Advantages of ridesharing.

2. Disadvantage of ridesharing.
3. Organization and duties of the Ridesharing Authority.
4. Methods to increase participation in ridesharing.
5. Infrastructure needed for a successful ridesharing program.
6. Conflicts with other programs or laws and the changes needed to implement a successful ridesharing program.
7. Costs of a successful ridesharing program (including a benefit-cost analysis) and how costs would be best funded.
8. A program of action with specific recommendations on how the concept of ridesharing can be promoted in the community.
9. Preparation of proposed legislation needed to create a Ridesharing Authority and to provide a program for ridesharing with incentives for participation and disincentives for nonparticipation.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2429-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 142-86 Transportation on H.B. No. 2428-86

The purpose of this bill is to fund a study to investigate the creation of a transportation improvement district.

Your Committee received testimony from the Department of Transportation favoring passage of this bill, to study the creation of a transportation improvement district in the Central and Leeward areas of Oahu.

Upon further discussion by your Committee, the Department of Transportation has agreed to enlarge the scope of the study to a statewide basis rather than limiting the study to the Central and Leeward areas of Oahu.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2428-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 143-86 Tourism on H.B. No. 1671-86 (Majority)

The purposes of this bill are: (1) to increase the general excise tax on transient accommodations from 4% to 6%; (2) to establish a Tourism Development Special Fund; and (3) to establish a State Tourism Development Advisory Commission.

At the public hearing the Department of Taxation noted that at the present time visitor accommodation operators pay a 4% general excise tax for "service business or calling" and retailing of transient accommodations. The Department further testified that the bill as received by your Committee, which would levy a higher tax upon just one type of service business activity, was technically flawed. In response to this concern your Committee amended this bill to establish a separate ("transient accommodations service business or calling" section within the general excise tax statutes with an applicable general excise tax rate of seven per cent.) This bill was further amended to clarify that lodgings or certain contract carriers by water are subject to this tax.

Your Committee finds that the visitor industry is one of the largest industries in the State employing a large segment of our State's work force, and the source of a significant portion of the State's revenues. A convention center would therefore enhance the visitor industry and benefit the economy of the State. This bill is thus amended to provide for the site selection of a convention center

and to provide funds for the planning, construction, repair, maintenance and improvements of a convention center but not for the cost of acquiring a convention center site.

Your Committee also received testimony that monies received from the increased tax should benefit the general fund. Hence, this bill is amended so that monies received from the increased tax shall be deposited into the Tourism Development Special Fund with disbursements from the fund applied as follows: (1) towards expenditures relating to the convention center; to pay for tourism promotion costs, including the funding of the Hawaii Visitors Bureau which is presently funded by the State general fund; and (3) towards programs and improvements to maintain enhance and develop the tourism industry, which are presently funded by the State general fund. However to ensure prudent fiscal management and control, these disbursements must first be approved by the Legislature upon recommendation of the Tourism Development Advisory Commission before disbursement.

Your Committee also amended this bill to provide for adequate county representation by establishing County Tourism Development Advisory Commissions. This bill has also been amended to dissolve the Interim Tourism Advisory Council.

And finally your Committee also made technical, non-substantive amendments for the purposes of style, clarity and consistency.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 1671-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1671-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 144-86 Transportation on H.B. No. 2626-86

The purpose of this bill is to provide a new formula for computing the maximum gross vehicular weight allowable on any public road other than interstate highways.

Your Committee received testimony from the Department of Transportation opposing the bill due to the increased maximum load that would be imposed upon the older public roads. Your Committee also received testimony from the Hawaii Transportation Association favoring the passage of the bill as it would allow the neighbor island transportation companies with shorter wheelbase trucks to increase their loads.

Your Committee has amended the bill in Section 1, page 3, line 11, by deleting the word "80,800" and replacing it with "80,000" to limit the overall gross weight of the vehicle traveling on interstate highways. Your Committee has also amended the bill in Section 1, page 3, line 23 by adding a sentence limiting the overall gross weight of vehicles traveling public highways to 88,000 pounds.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2626-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2626-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 145-86 Transportation on H.B. No. 1392

The purpose of this bill is to give the Department of Transportation the flexibility to determine whether all of the concession contracts at the Honolulu International Airport should be let pursuant to competitive bidding or negotiation.

Your Committee finds under present law, certain concession contracts at the Honolulu International Airport are required to be let through the competitive bidding process, unless specifically exempted by Section 102-2(b), Hawaii Revised Statutes. The bill would allow the Department of Transportation to let all concession contracts at the Honolulu International Airport pursuant to negotiation

rather than competitive bidding.

Your Committee received testimony from the Department of Transportation opposing the bill due to the lack of guidelines or criteria under which to negotiate the contracts as well as the possible political implications which would be raised upon the award of the contracts. There was also testimony received from Duty Free Shoppers Ltd. favoring the passage of the bill. Upon further questioning by your Committee, the Department of Transportation testified that due to the significant revenues which the present in-bond merchandise concessionaire produced for the airport special fund, it would have no objections if the bill was specifically limited to the in-bond merchandise concession and not all of the concessions at the Honolulu International Airport.

Your Committee has amended the bill to insert the phrase "the in-bond merchandise" in Section 1, page 1, lines 2, 10 and 15 prior to the word "concession" to limit the application of this bill specifically to the in-bond merchandise concession contract rather than all concession contracts at the Honolulu International Airport.

Your Committee has also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1392, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1392, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 146-86 Human Services on H.B. No. 2580-86

The purpose of this bill is to provide for an exception to the State excise tax for purchases made with food coupons to allow the State continue to participate in the Food Stamp Program.

The Food Security Act of 1985 prohibits states from participating in the Food Stamp Program if there is a state or local sales tax on purchases made with food coupons. The Department of Social Services and Housing has requested the United States Department of Agriculture to rule whether the State excise tax is a sales tax for the purposes of the Food Security Act.

This bill would exempt purchase made with food coupons from the State excise tax in the event that the United States Department of Agriculture rules against the State. Your Committee believes that the \$90,000,000 worth of food coupons received by the State's low income residents justifies the estimated loss of revenues totalling \$3,600,000.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2580-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Leong, Levin and Jones.

SCRep. 147-86 Human Services on H.B. No. 2211-86

The purpose of this bill is to appropriate funds for a 24-hour, seven-day-a-week, on-call interpreter service to assist individuals with minimal English proficiency to gain access to basic community services.

The Department of Health, the Department of Social Services and Housing, the Office of Community Services, the Honolulu Police Department, Victim/Witness Kokua Services of the Honolulu Prosecutor's Office, Kapiolani Women's and Children's Medical Center and a variety of community, immigrant and refugee organizations, all testified in support of the bill.

The Bilingual Access Line has provided services in a wide variety of crisis situations outside of law enforcement, including medical and social service situations, to the great benefit of both the person in need as well as user

agencies. The interpreter services currently offered have also assisted the Health Department in meeting its Title VI federal obligations to serve non-English and limited English speaking persons.

At present, the Bilingual Access Line covers ten high-need languages and has developed a referral system for those languages which have not been designated as high-need.

Hawaii, being one of the few multicultural, multi-ethnic and multilingual States in the nation, has a great number of immigrants and refugees who rely heavily on their mother tongue. The Bilingual Access Line encourages cultural assimilation and enables government services to be provided to those in need.

Your Committee has amended the bill by providing an appropriation of \$35,994 for the program.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2211-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2211-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Leong, Levin and Jones.

SCRep. 148-86 Tourism and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2846-86

The purpose of this bill is to effectuate the development of a convention center complex.

H.B. No. 2846-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committees on Tourism and Water, Land Use, Development, and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2846-86, as amended herein, and recommend that it be recommitted to the Committees on Tourism and Water, Land Use, Development and Hawaiian Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2846-86, H.D. 1.

Signed by all members of the Committees except Representatives Nakasato and Pfeil.

SCRep. 149-86 Human Services and Housing on H.B. No. 2603-86

The purpose of this bill is to provide screening, referral and counseling services to assist Oahu residents of all ages to locate affordable housing with elderly who are in need of in-home assistance.

Your Committees heard testimony in support of this bill from the Department of Social Services and Housing, the Office of Human Resources of the City and County of Honolulu, Catholic Charities, the Volunteer, Information and Referral Service, Kokua Council for Senior Citizens-Founders' Group, the United Church of Christ and Waianae Ohana Homes.

Your Committees find that there is a great shortage of affordable rental housing units in the State, especially on the island of Oahu. Your Committees also find that there is a great need for live-in help, security, companionship and financial support for the frail elderly to enable them to continue living in their own homes.

Your Committees believe that both these needs can be met through an Inter-

generational Paired Housing program. Oahu's affordable rental housing inventory would be increased without the expense of constructing new elderly housing projects. In addition, shared living arrangements would encourage a supportive system for the elderly who wish to remain in their homes but need further financial support and companionship.

Your Committees have provided for an appropriation of \$100,000 to carry out the purpose of the Intergenerational Paired Housing program. Various service providers have indicated an interest in carrying out this program. Rather than specifying a provider, however, your Committees believe that providing the funds to the Department of Social Services and Housing on an undesignated provider basis would be in keeping with the spirit and intent of Chapter 42, Hawaii Revised Statutes, and would enable various providers to compete with their proposals for the funds provided.

Your Committees on Human Services and Housing are in accord with the intent and purpose of H.B. No. 2603-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 150-86 Human Services on H.B. No. 2426-86

The purpose of this bill is to provide \$25,000 to the Executive Office on Aging in FY 1986-87 for a coordinator-trainer to train, place and supervise volunteers providing outreach and respite services to caregiving families with elderly members afflicted with Alzheimer's Disease.

Your Committee received testimony in support of this bill from the Executive Office on Aging (EOA), the Department of Health and the Alzheimer's Disease and Related Disorders Association (ADRDA).

Alzheimer's Disease is an irreversible brain disorder with no known cause or cure and is the fourth leading cause of death among older Americans after heart disease, cancer and stroke. The degeneration associated with this disease occurs within an average six to eight years, although some victims suffer as long as twenty years.

The ADRDA testified that it receives daily calls from distressed family caregivers in need of a respite volunteer who can assist the afflicted person with meals, dressing, self-care and related activities. The round-the-clock attention necessary for the care of a person afflicted with Alzheimer's Disease is extremely demanding. Your Committee finds that training respite volunteers is a cost-effective way of providing relief for family caregivers.

The Legislature provided funds for this same purpose during FY 1985-86 but start-up problems have delayed the training program. Your Committee believes that funding this program for FY 1986-87 at the same level will provide the necessary support for the program.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2426-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Leong, Levin and Jones.

SCRep. 151-86 Human Services on H.B. No. 2074-86

The purpose of this bill is to correct a medical notation in §291-51, Hawaii Revised Statutes.

Currently, the definition of "disabled person" in §291-51, Hawaii Revised Statutes, includes any person who is restricted by a lung disease to such an extent that the person's arterial oxygen tension (PO_2) is less than 60mm/hg on room air at rest. The notation (PO_2) refers to oxygen tension but does not limit it to arterial tension. The addition of a subscript "A" immediately following the "P" ($P_A O_2$) would specify that the notation refers only to arterial tension.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2074-86 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Leong, D. Ige, Cavasso and Jones.

SCRep. 152-86 Judiciary on H.B. No. 1961-86

The purpose of this bill is to provide for a supplemental appropriation to the Judiciary for the 1986-1987 fiscal year.

The Judiciary testified in support of the supplemental appropriation request and stated the uses for the funds.

JUD 101 - Courts of Appeal

No additional funds were requested for this program.

JUD 111 - Circuit Courts

No additional funds were requested for this program.

JUD 112 - Family Courts

Attorney and Guardian Ad Litem Fees. Additional moneys were needed for fees for attorneys who were appointed by the court to represent juveniles.

Detention Home Maintenances. The Department of Accounting and General Services requested that the Judiciary cover the maintenance of the detention home facility on Oahu.

Children and Youth Services. The Judiciary requested additional funds to fund a full-time social worker for the fifth circuit. The Judiciary testified that the position was inadvertently funded as a half-time position.

Children and Youth Services. Additional funds were requested to fund the intake services for Hale Opio, a long term shelter facility.

JUD 121 - District Courts

Physical Facilities Maintenance. The moneys requested were to fund four janitors and one groundskeeper position for the maintenance of Ali'iolani Hale. Presently, maintenance is handled by using personnel from two other buildings. Additionally, funds for maintenance equipment were requested.

Judicial Support. Funds were requested for a court clerk position for the second circuit district court. Presently, the district court judge does not have a clerk and is being assisted by other personnel.

Records Processing. The Judiciary requested funding to expand the night shift operations of the violations bureau from one night a week to five nights a week. In addition, permanent position counts were requested for three clerk typist positions for the second circuit.

JUD 201 - Administrative Director Services

Computer Systems. Funds were requested for rental and maintenance of the data processing equipment that had been previously purchased. The Judiciary had inadvertently omitted these items in the biennium budget request. An additional sum was requested to convert the software licensing from a license tied to the State EDPD computer to an independent standard license.

Volunteer Program. The supplemental budget included a request for eight temporary social service assistant positions for the Program Services Office to assist in the Community Service Sentencing Program. The average caseload for the staff has increased because of two additional courtrooms to handle driving under the influence cases.

Judicial Selection Commission. A request was included for additional attorney's

fees to defend the Judicial Selection Commission in a lawsuit.

Administrative Services. Additional funds were requested for maintenance and for the Judiciary's telephone costs statewide. Previously, the telephone system was included in the Department of Accounting and General Services budget. Funds were also being requested to rent temporary office space during the renovation of Ali'iolani Hale.

After reviewing the Judiciary supplemental budget, your Committee makes the following amendments:

1. JUD 121 - District Courts

a. Physical Facilities Maintenance. Deletion of \$83,240. Your Committee deleted the janitorial and groundskeeper positions and sums for equipment. Your Committee did not believe the positions were essential since maintenance appears to be adequately handled with existing personnel.

b. Records Processing. Deletion of \$90,838. While there may be benefits to having night shift daily for the violations bureau, the Judiciary at this time could not provide data to support the request. Therefore, your Committee recommends deletion of the funds.

2. JUD 201 - Administrative Director Services

a. Computer Systems. Deletion of \$342,674. Concern was expressed at the hearing that the contract for equipment and maintenance of the computer system did not follow expenditure procedures for state funds. While a contract without competitive bidding may have been warranted, the reasons were not clear to your Committee. Therefore, your Committee recommends that funds for this item be deleted.

b. Judicial Selection Commission. Deletion of \$15,000. Your Committee recommends that this request be deleted since no adequate explanation of the attorney's fees were given at the hearing.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1961-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1961-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hashimoto, Jones and Liu.

SCRep. 153-86 Ocean and Marine Resources on H.B. No. 2276-86

The purpose of this bill is to appropriate funds for the promotion of fresh seafood from Hawaii.

During discussion your Committee found that although the University of Hawaii's Sea Grant College Program desires to participate, it cannot provide the funds required in this measure. In developing alternatives, the Hawaii Seafood Promotion Committee offered to seek in-kind matching services from the private sector in lieu of a matching commitment from the Sea Grant College Program.

Your Committee finds that the Hawaii Seafood Promotion Committee has developed a manual on approximately 20 species of fish which will serve as a text for acquainting users with how these species might be used as a substitute to the more popular fish and seafood presently in demand. In addition, the Committee intends to develop a series of posters and attend trade shows across the country in order to maximize its efforts in promoting under-utilized seafoods from Hawaii.

Your Committee further finds that based on the development and updating of this manual, training workshops, publication of posters and other materials for wide distribution, and attendance at trade shows, there is a need to be realistic regarding the cost of such an undertaking.

Your Committee amends this bill to appropriate \$50,000 to the Department of Planning and Economic Development. Your Committee further amends this bill to delete reference made to the University of Hawaii's Sea Grant College Program.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. 2276, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2276-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 154-86 Higher Education and the Arts on H.B. No. 2381-86

The purpose of this bill is to seek an appropriation to fund the operational expenses of the Commission established to coordinate and plan activities and projects commemorating the 200th anniversary of the arrival of the Chinese in Hawaii.

Testimony was received from six Chinese associations in support of the bill.

Your Committee recognizes the significance of the anniversary and has amended the bill to appropriate the sum of \$200,000.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2381-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2381-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 155-86 Higher Education and the Arts on H.B. No. 2412-86

The purpose of this bill is to appropriate \$110,000 for expenses related to the participation of a Hawaiian voyaging canoe in the Tall Ship Celebration, July 1986, in the New York Harbor.

While in agreement with the intent of the bill, your Committee finds that it can appropriate \$20,000 for the purpose of this bill.

Your Committee has therefore amended the appropriation amount to the sum of \$20,000. Your Committee has also made several non-substantive amendments.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2412-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2412-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 156-86 Higher Education and the Arts on H.B. No. 2661-86

The purpose of this bill is to have the University of Hawaii conduct studies for improving minority student access to local post-secondary education, and to appropriate \$85,000 for this purpose.

Your Committee wishes to promote studies and demonstration projects leading to diversity at the University of Hawaii. It was reported to your Committee that the funds will facilitate surveys, case studies, development and testing of audio-visual recruitment material, a peer and mentor program, as well as counselor, faculty, and student workshops.

Your Committee also heard H.B. No. 1825-86, which called for establishing two positions at the University to offer academic support services for minority students at a cost of \$55,000. Your Committee believes that such action is warranted and that the funds should be used to directly provide recruitment and counseling services to minorities.

Your Committee therefore has amended H.B. No. 2661-86 as follows:

(a) The initiation of projects was added to the task of study and recommendation to be performed by the University.

(b) A new section has been added to provide for two positions in UOH-902 (Student Services, System-Wide Support) with the intention being to give the university maximum flexibility, with the hope that approximately half the effort be directed toward four year programs and half to community college students and potential recruits. It is also the Committee's intention that these positions be for direct service and not for support staff.

(c) The appropriation amount has been increased to \$88,000 for studies and projects, and \$55,000 for two positions. The University of Hawaii was also designated to expend the sums appropriated.

Your Committee notes that several programs already exist at the University which help minority students exclusively or as part of their assistance to the entire student body. While the appropriation herein will assist with that effort, it is hoped and expected that the University will organize its expenditures, and perhaps consolidate programs, so that duplication of unnecessary administrative expenses is avoided.

Your Committee on Higher Education and the Arts is in accord with the purpose and intent of H.B. No. 2661-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2661-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 157-86 Higher Education and the Arts and Public Employment and
Government Operations on H.B. No. 2140-86

The purpose of this bill is to clarify the authority of the Board of Regents under Sec. 103-23, Hawaii Revised Statutes. This bill would provide authorization to the Board of Regents to approve exceptions to the competitive bidding requirements and also allow the University to negotiate for necessary goods or services when no bids are received in response to an advertisement procurement.

Presently, the University is required to obtain gubernatorial approval in both situations.

Your Committees know that the University, due to its size and complexity, is frequently faced with problems requiring emergency corrective action, and there is a need for the University to be responsive on those occasions. It is also appropriate to assure a mechanism whereby the institution can expedite educational and research requirements.

Your Committees on Higher Education and the Arts and Public Employment and Governmental Operations are in accord with the intent and purpose of H.B. No. 2140-86, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 158-86 Higher Education and the Arts and Tourism on H.B. No.
2332-86

The purpose of this bill is to require the Board of Regents to waive the tuition and any other related educational fees for certain law enforcement officers and emergency medical personnel who enroll in Japanese language or culture courses offered by the University of Hawaii.

Your Committees received testimony from a number of concerned individuals and organization in overwhelming support of this measure. However the Waikiki Improvement Association recommended that the reference to the Sheriff as the designatory authority for deputy sheriff participants be deleted, and that reference to the Chief Justice be appropriately substituted. In addition, the University of Hawaii representative emphasized the importance of the conversational aspect of language proficiency for the involved officers and medical personnel, and noted the broad scope of the bill, which encompasses reading and writing skills as well.

Your Committees have therefore amended the bill as follows:

1. Deleted the phrase "or Japanese culture" on page 1, line 4 and on page 2, line 8;
2. Deleted the reference to the Sheriff on page 1, line 8, and substituted reference to the Chief Justice of the Supreme Court; and
3. Deleted the word "shall" on page 2, line 5, and substituted the word "may".

Your Committees find that since the visitor industry is at the present time the mainstay of Hawaii's economy, any and all efforts should be made to provide for the increased safety and protection of our visitors, especially those not fluently conversant in the English language.

Your Committees on Higher Education and the Arts and Tourism are in accord with the intent and purpose of H.B. No. 2332-86, as amended herein, and recommend that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 2332-86, H.D. 1.

Signed by all members of the Committees except Representatives Grauly, Honda, Lindsey, Say, Takamine, Tungpalan and Cavasso.

SCRep. 159-86 Tourism on H.B. No. 2303-86 (Majority)

The purpose of this bill is to appropriate the sum of \$100,00 for the promotion and advertising of Hilo as a visitor destination area.

Your Committee finds that although the east side of the island of Hawaii is one of the most scenic and historically significant areas in the State, it is generally overlooked by visitors to the State. The town of Hilo is especially rich in history, and is the center of cultural, business, and government activity for the area. It is therefore appropriate to assist the visitor industry of Hilo by supporting the promotion of Hilo as a visitor destination area.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 2303-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takamine, Tungpalan and Yoshimura.
(Representative Anderson did not concur.)

SCRep. 160-86 Tourism on H.B. No. 2810-86 (Majority)

The purpose of this bill is to appropriate funds for County tourist promotion programs on condition that funds be matched by the respective recipient Counties.

Your Committee received enthusiastic support testimony from the Hawaii County Council and the Kauai County Council, and finds that while an effort to promote the State as a whole is done by the Hawaii Visitors' Bureau, additional efforts on the part of each respective county is desirable to promote each island's unique facilities, qualities and characteristics.

The bill has been amended with the insertion of nominal appropriation sums of \$1 for each County, and the City and County of Honolulu in anticipation of further deliberation with regard to specific sums by the Committee on Finance during their preparation of a comprehensive state financial plan.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 2810-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2810-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takamine, Tungpalan and Yoshimura.
(Representative Anderson did not concur.)

SCRep. 161-86 Tourism on H.B. No. 2342-86 (Majority)

The purpose of this bill is to establish a Tourism Training Council within the Department of Labor and Industrial Relations which would: (1) review and assess the various visitor industry employment programs in existence, and advise the Governor and the Legislature on the programs' appropriateness and adequacy; (2) act as a clearinghouse to provide proper program coordination; and (3) function as an advocate to ensure the quality of programs offered, and suggest changes for additional programs to meet changing needs of the industry and the affected employees.

Your Committee received testimony from a number of departmental representatives, and visitor and labor organizations in support of this measure. The Department of Planning and Economic Development noted that the creation of the Council is consistent with policy guidelines as outlined in the Hawaii State Plan and State Tourism Functional Plan. In addition, the Department of Labor and Industrial Relations testified that the Council would:

- (1) Seek ways to improve the upward mobility and career advancement of Hawaii's visitor industry workers; and
- (2) Pursue human resource development in new and expanding visitor industries; and
- (3) Assist in the improvement and enhancement of visitor industry education and training programs for the benefit of local employees and trainees from the Pacific Basin.

Your Committee finds that the prosperity of Hawaii depends upon a healthy visitor industry, which is in turn dependent on the quality of its employees. Therefore persons employed in the visitor industry must be afforded ample opportunities to improve and upgrade their job skills.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 2342-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takamine, Tungpalan and Yoshimura.
(Representative Anderson did not concur.)

SCRep. 162-86 Education and Judiciary on H.B. No. 2574-86

The Department of the Attorney General prepared and requested the introduction of this bill to secure an appropriation totalling \$1,829,781.30 to satisfy the judgment entered against the Department of Education, State of Hawaii, by the United States Court of Appeals for the Ninth Circuit in Department of Education vs. Terrel Bell, C. A. Nos. 82-7697 and -7698.

In entering that judgment, the United States Court of Appeals for the Ninth Circuit affirmed two earlier decisions of the United States Education Appeals Board, which held that Hawaii had misspent certain federal funds it received pursuant to the Elementary and Secondary Education Act of 1965 (Title I, currently designated "Chapter 1") during the fiscal years 1973 through 1977. Both the administrative agency and the court concluded that Hawaii had inappropriately used federal funds instead of State funds to pay for materials, supplies, and teachers' salaries in certain of its compensatory education programs, and failed to use State funds to provide students enrolled in Title I schools with the same level of services provided to children enrolled in non-Title I schools.

The Department of Education, by written testimony and the comments of representatives present at the hearing held in this matter, has assured the Committees that because of subsequent efforts by the federal government to clarify the uses to which states may put Title I/Chapter 1 funds, and monitoring by the Department of Education, demands for refunds by the Secretary of Education should not be made in the future.

The Attorney General testified in support of the measure. Even though an appeal from the Ninth Circuit's decision to the United States Supreme Court by petition for writ of certiorari may still be taken, the Attorney General advises

that the judgment entered against the Department of Education, State of Hawaii, should be paid as soon as possible. The United States has demanded interest on refund judgments such as that entered against Hawaii, from other jurisdictions which have been in similar situations; while there is some question as to the United States' entitlement to interest, under the worst case scenario, the amount which Hawaii would be required to pay, if interest were assessable, would nearly double by December 31, 1986.

Testimony and comments from both the Department of Education and the Department of the Attorney General indicate that the amount paid by Hawaii in satisfaction of the judgment entered by the Court of Appeals for the Ninth Circuit would be returned in whole or in part, if Hawaii were to file a petition for writ of certiorari in the United States Supreme Court, and the United States Supreme Court were to accept that appeal and render a decision in Hawaii's favor. In addition, even if an appeal were not taken, up to 75% of the amount refunded to the Secretary of Education could be "granted-back" to Hawaii by the Secretary of Education to fund additional compensatory education projects in Chapter 1 schools, if the Secretary approved the use of the grant-back funds for those additional projects and the Secretary was satisfied that Hawaii was otherwise in compliance with all requirements of the Chapter 1 program.

Your Committees expressed concern that the Department of Education, State of Hawaii, has not contacted the United States Department of Education to determine whether the affected programs are now in compliance with federal requirements; and therefore, requested that the Department of Education, State of Hawaii contact the federal agency.

Your Committees also expressed concern that violations of this magnitude do not occur again, thereby preventing another appropriation of this nature.

Your Committees on Education and Judiciary are in accord with the intent and purpose of H. B. No. 2574-86, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Nakasato and Pfeil.

SCRep. 163-86 Legislative Management on H.B. No. 1954-86

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article III, Section 10, of the Constitution of the State of Hawaii to allow the legislative recess to be split into two or more parts and allow the recess to occur any time after the bill introduction deadline.

As established by the 1978 Constitutional Convention, the present Constitution requires a mandatory recess of not less than five days, at some period between the twentieth and fortieth days of the regular session.

Your Committee finds that there are at least two important dates in the legislative calendar which warrant a recess, the deadline for introduction of bills and the deadline for bills to be exchanged by the two houses.

The current practice is for the recess to occur shortly after the deadline for bill introduction. At this point, all of the bills have been introduced and referred to Committee. It is an appropriate time to have a recess. It allows everyone time to review all of the bills that have been introduced and their referrals, before any deadlines for the movement of bills have passed.

Your Committee finds that the problem with having a five day recess shortly after the deadline for bill introductions is the length of the recess. Five days is too long for the legislative process to pause, especially with a limited period of time in which to hold hearings. As a consequence, it has become standard practice to hold hearings during the recess. This practice may well be contrary to the intent of the drafters of the constitutional provision for a recess.

Currently, there is no recess after the deadline for the exchange of bills between houses. Such a recess would be very appropriate because the "cross-over" deadline effectively separates the majority of bills that cannot pass in the current year from the minority of bills which are still "alive". This too is a good point to pause and assess the status of the various bills.

Your Committee heard testimony from some people who prefer for the recess to occur earlier in the session, so they can review all of the legislation that has been introduced before any of it has been "lost in the shuffle". Other people prefer for the recess to occur after the "crossover" deadline, so that they can concentrate their efforts on the bills that have reasonable chance of passing.

If your Committee finds from the testimony that the constitutional amendment embodied in this bill is approved by the electorate, the legislature will have flexibility to have the five day recess split. For example, there can be a three day recess shortly after the deadline for bill introduction and a two day recess after the "crossover" deadline.

Also, if there are two recesses and each is of a shorter duration, it is more likely that the Legislature will be able to forgo the holding of hearings during each recess. Thus, two shorter recesses will better serve the needs of the public and the objectives of the drafters of the recess provision.

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 1954-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 164-86 Legislative Management on H.B. No. 2350-86

The purpose of this bill is to amend Section 24-4, Hawaii Revised Statutes, to provide for an increase in the allowance for expenses while on official legislative business during periods of recess and interim official legislative business from \$10 a day to \$50 a day.

While in agreement with the intent of the bill to provide for an increase in the allowance for expenses, your Committee believes that there are several problems with the proposed amendment. Your Committee finds from the testimony presented that the amendment proposed would apparently contravene a constitutional mandate. Also, testimony did not support an increase of the allowance to \$50.

Your Committee has amended the amount allowed by this bill to cover personal expenses from \$50 a day to the amount equal to the amount given to each juror for each day of actual attendance at court, §612-8, Hawaii Revised Statutes. Currently the amount given to jurors is \$20 a day for each day of actual attendance in court. Your Committee has changed the word "his" on line 9 to the legislators. Also, on page 2, line 4 has been amended to delete "all personal expenses such as" in accordance with written testimony.

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 2350-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2350-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 165-86 Legislative Management on H.B. No. 2472-86

The purpose of this bill is to provide that allowances for incidental expenses of legislators shall be payable at least 30 days prior to the opening of each regular legislative session.

Under present law the incidental expenses and the amount connected with legislative duties are payable in a manner prescribed by the rules of the House of Representatives.

Your Committee is in agreement with the intent of the amendment to Section 24-1, but has agreed to change the amendment as follows: Delete the change "at least thirty days" and replace it with "on or about the 3rd day of January". The amendment will now read as follows:

"on or about the 3rd day of January prior to the opening of each regular legislative session".

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 2472-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2472-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 166-86 Health on H.B. No. 2515-86

The purpose of this bill is to appropriate the sum of \$475,000 out of the general revenues of the State, for fiscal period 1986-87, to provide services to individuals with developmental disabilities.

The amount appropriated is intended to be expended by the community services for developmentally disabled branch of the department of health. It would provide a variety of day program services to developmentally disabled adults statewide. This would be a primary factor in making it possible for a disabled family member to remain at home rather than in an institution.

The day programs help train the developmentally disabled in achieving skills in daily living activities, socialization and community living, as well as to prepare them for employment. The intent of this bill is consistent with the State's policy of deinstitutionalization with respect to disabled persons.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2515-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 167-86 Health on H.B. No. 2509-86

The purpose of this bill is to make an appropriation to help implement the sudden infant death syndrome (SIDS) education and counseling program.

This bill would appropriate for fiscal period 1986-87 the sum of \$20,000 as a grant-in-aid to Kapiolani Women's and Children's Medical Center to be expended for the SIDS education and counseling program.

The SIDS program at Kapiolani Women's and Children's Medical Center is the only one of its kind in the State and acts as a central depository of data related to sudden infant deaths. The program is intended to assist the community at large as well as the professional community and families who have had children die of sudden infant death syndrome.

SIDS is the leading cause of infant deaths among children who are between one month and one year of age in Hawaii. There are 25 to 30 SIDS deaths each year which make up about 30% of all infant deaths in Hawaii. The cause of SIDS is unknown and the death of a child from SIDS has a devastating effect on all who were involved with the child.

Your Committee is aware that this appropriation as a grant-in-aid comes within the provisions of chapter 42, Hawaii Revised Statutes, and appropriate steps must be taken to comply before this appropriation can become effective.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2509-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 168-86 Health on H.B. No. 2702-86

The purpose of this bill is to increase by a bonus every pension payable to patient employees at any location maintained for the treatment and care of persons affected with leprosy.

This bill is intended to provide a pension bonus for retired patient-employees

who have retired from service in Kalaupapa. There are about 90 retired patient-employees on the Kalaupapa registry currently receiving a pension, and the monthly payments range from \$206 to \$520. The State also provides health care and other services to Kalaupapa residents for the remainder of their lives so long as they choose to remain at Kalaupapa.

Patient-employees, however, only recently were allowed to have their salaries increased to meet minimum wage standards. Therefore, all that these patient-employees can hope for by way of a pension is to receive, at the very maximum, 66 2/3% of their highest salary, which is the minimum wage.

Your Committee agrees that pension-employees receive pensions which are predominantly lower than pensions received by other government employees and face difficult problems due to increasing living costs at the settlement. The matter of the amount of the bonus payment, however, has been left for determination by the Committee on Finance.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2702-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 169-86 Human Services on H.B. No. 2000-86

The purpose of this bill is to clarify the definition of prevention and to change the name and composition of the Child Abuse and Neglect Secondary Prevention Advisory Committee.

Your Committee heard testimony in support of this bill by the Departments of Health and Education and the Office of Children and Youth.

Under current law, the advisory committee's duties are limited to child abuse and neglect secondary prevention programs, which are directed at high-risk situations. Your Committee believes that the advisory committee would be better able to assist the Department of Health if it were allowed to look more broadly at child abuse and neglect prevention.

Your Committee amended this bill to change the composition of the advisory committee. As originally drafted, the bill provided for three members who are officers or employees of private agencies which provide prevention services and three who have a general interest in child abuse and neglect prevention.

Your Committee believes that persons with such a direct interest in providing prevention services should not be advising the Department of Health in these matters. Your Committee's attention has been drawn to Advisory Opinion No. 565 by the State Ethics Commission which applied the State Ethics Code to State board members who are associated with private organizations that are contractors with the Department of Health.

To remove any advantage that any individual or organization may have in the competition for State purchase of service funds, your Committee believes that, as a matter of policy, only persons with an interest in child abuse and neglect prevention, but are not officers, directors, employees or consultants to organizations receiving State funds should be members of the advisory committee. The bill was also amended to correct certain technical and stylistic errors.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2000-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2000-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Leong, Bunda, Levin and Jones.

SCRep. 170-86 Human Services and Judiciary on H.B. No. 2345-86

The purpose of this bill is to promote the adoption of children with special needs by enabling the State of Hawaii to join the Interstate Compact on Adoption

and Medical Assistance.

Currently, the federal government provides partial reimbursement to states for adoption assistance to children with special needs under the Aid to Families with Dependent Children or Supplemental Security Income programs. Prior to the Adoption Assistance and Child Welfare Act of 1980, reimbursement was only available for children in foster care. As a result of the Act, benefits (which include a monthly subsistence payment and medical benefits) are available to the child and adoptive parents regardless of where the family resides within the United States. This mechanism assures prospective adoptive parents of children with special needs that they will receive the necessary assistance in adopting these children.

Many medical service providers in other states do not recognize a Medicaid card from Hawaii. By joining the ten other states that have already signed the Compact and the many others that have either passed enabling legislation or are expected to, Hawaii can more easily ensure that children with special needs will receive the medical benefits they require.

Your Committees amended this bill by limiting the amount of payment for a child living in another state, for whom the State has signed an agreement, to the amount that would be covered if the child were living in this State.

Your Committees further amended this bill by adding definitions for: "adoption assistance", "child", and "child with special needs". Your Committees added the definitions as recommended in the Interstate Compact on Adoption and Medical Assistance.

Since penalties for the actions described in section 6(d) of this bill are already set forth in other sections of the Hawaii Revised Statutes, your Committees amended this bill by deleting section 6(d).

Your Committees have also made technical, nonsubstantive amendments for purposes of style and clarity.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 2345-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2345-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Leong.

SCRep. 171-86

Consumer Protection and Commerce on H.B. No. 2034-86

The purpose of this bill is to amend Chapter 455, Hawaii Revised Statutes, by adding new sections to provide grounds for disciplinary sanctions; to provide for notice and an opportunity for hearing in conformity with Chapter 91, Hawaii Revised Statutes; to provide for revocation and suspension of a license; to provide for minimum and maximum fines for each violation; to provide for appeal of the Board of Examiners in Naturopathy's decisions to the circuit court; and to provide that remedies and penalties are cumulative to each other and to the remedies or penalties available under all other laws of the State.

Your Committee received favorable testimony from the Board of Examiners in Naturopathy (Board), the Hawaiian Society of Naturopathic Physicians (Society) and practicing naturopathic physicians. The Society provided, in pertinent parts, the following testimony:

1. The Board has inserted language into the bill which would redefine and modernize the scope and practice of naturopathic medicine by placing into this bill the definition of Naturopathic Physicians from the United States Department of Labor, as revised in 1975. This amendment clarifies and standardizes the scope and practice of naturopathic medicine;

2. To insure the quality of professional licensing examinations, the Board has inserted language into the bill which would provide the Board with the authority to contract with a professional testing agency to prepare, administer and grade the examination; and

3. The Board has inserted language into the bill which would recognize accreditation at the state, regional, national and professional level.

Your Committee also heard testimony from the Department of Health (Department), who expressed strong reservations with respect to this bill. The Department testified that this bill would expand the practice of Naturopathy, including the "taking of bodily fluids and tissues" and "minor surgery", which would exclude "any surgical procedure in any major body cavity". Accordingly, by definition, this could include surgery on lipomas, myomas, tendons and other structures. The Department was also concerned that no definition of "superficial" is given except to exclude major body cavities; superficial skin lesions are often cancerous and need considerable skill in removal.

Accordingly, surgical procedures of any type are not "natural" healing and involve considerable medical judgment. Therefore, to allow such surgical procedures to be performed by naturopaths may jeopardize the health of the people of Hawaii.

Your Committee, upon further consideration, and in light of the Department's testimony has made the following amendments:

1. On page 5, line 13, the phrase "...body fluids and tissues" has been deleted and replaced with the phrase "...blood, urine, feces or superficial tissues for diagnostic purposes.";

2. On page 6, lines 16 through 19, the following language has been deleted: "...except those assimilable substances containing elements or compounds which are components of body tissues and are physiologically compatible to body processes for maintenance of life."; and

3. A definition for "official surgery" has been added to Section 455-1.

4. On page 9, lines 6 through 10, the following language has been deleted: "...any official state, regional, national, or professional accrediting body as accepted by the board, including regional accrediting associations of secondary schools and colleges or the..." and replaced with the following language: "...the Northwest Association of Secondary Colleges, the Oregon Education Coordination Committee, the Committee on Naturopathic Medical Education and the...".

Your Committee further finds that in the absence of guidelines which state otherwise, "major surgery" will include any surgical procedure in any major body cavity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2034-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2034-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 172-86

Consumer Protection and Commerce on H.B. No. 1913-86

The purpose of this bill is to amend Section 26H-5, Hawaii Revised Statutes, to require the Legislative Auditor to submit drafts of legislation in connection with changes recommended in the Legislative Auditor's reports (sunset reports) to the Legislature.

Your Committee reviewed testimony from the Legislative Auditor, who testified that although he had no objections to the proposed amendment, he pointed out that it would be more efficient for the Legislative Reference Bureau (Bureau) to continue to draft bills. As a compromise, he suggested that the bill be amended to require that a copy of the preliminary sunset reports be transmitted to the Bureau for bill drafting purposes. This would, in turn, give the Bureau approximately 30 days to prepare the necessary legislation.

Your Committee, notwithstanding the Legislative Auditor's testimony, finds that there is a need for the Legislative Auditor to do bill drafting based on his sunset reports. Presently, the Bureau is asked to prepare duplicative legislation by Committee members. Further, the Bureau has been asked to draft sunset bills after the session has started, which has prevented timely scheduling of hearings. Accordingly, it is your Committee's expectation that requiring the Legislative Auditor to do sunset report bill drafting will provide your Committee with sufficient time to study the proposed legislation, reduce the number of duplicate bill

requests, and provide more time to schedule hearings.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1913-86 and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 173-86 Corrections and Rehabilitation on H.B. No. 1824-86

The purpose of this bill is to appropriate funds for the establishment of new positions to meet the increased workload of the parole supervision and counseling program of the Hawaii Paroling Authority.

Your Committee received favorable testimony from the Hawaii Paroling Authority and finds that this appropriation will improve the Authority's ability to provide parole supervision and counseling assistance. Furthermore, your Committee finds that the Authority's caseload has more than doubled within the past two years, and that these additional positions are critically needed to manage the increased caseload.

Your Committee has amended this bill by: (1) reducing both the amount of funds requested to \$92,268 and the number of positions requested to 5.00 as the Chairman of the Authority testified that these amounts would be satisfactory; and (2) designating the Department of Social Services and Housing as the expending agency.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of H.B. No. 1824-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1824-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 174-86 Health on H.B. No. 2705-86

The purpose of this bill is to provide funds to maintain the current statewide system of substance abuse services.

The continued reduction in available federal funds, together with the increasing cost of liability and malpractice insurance have reduced the capability of the substance abuse service system to provide essential services in the areas of substance abuse and drug abuse. This unavoidable reduction is occurring just as the caseload is increasing and the problems are mounting.

This bill would appropriate out of the general revenues of the State the sum of \$278,000 in fiscal period 1986-87, for prevention, crises intervention, outpatient and residential substance abuse services. \$139,000 would be expended for alcohol services and \$139,000 for drug abuse services. The sum appropriated shall be expended by the Department of Health.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2705-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 175-86 Health on H.B. No. 1767-86 (Majority)

The purpose of this bill is to provide for the revocation of the licenses of health care providers, licensed under the provisions of chapter 442, Hawaii Revised Statutes, who are found by the appropriate licensing board to be responsible for malpractice.

Your Committee agrees that legal actions taken against members of the medical profession for malpractice is one element in a broad base of factors which contributes to the problem of the high cost and unavailability of medical malpractice insurance. Your Committee, however, believes, at the present time, that there is

no proof to support the proposition that all health care providers should be subjected to the disciplinary action called for in this bill in order for malpractice insurance rates to come down. Rather, it believes that it would be sufficient for now to have only the medical profession more closely monitored by the Board of Medical Examiners to achieve that desired objective. Your Committee, therefore, has appropriately amended the bill to reflect its intent.

The amendments to this bill are designed to strengthen and improve the current licensing and disciplinary process for physicians. The Board of Medical Examiners would be given additional powers under these amendments to ensure that applicants and licensees have demonstrated their fitness to practice.

Specifically, these amendments make the following changes:

- (1) Clarify and state specifically the construction to be given to the statute;
- (2) Require applicants and physicians to report changes in information filed with the board;
- (3) Permit full communication and cooperation with other agencies reviewing or investigating physicians;
- (4) Create an "inactive" license category in order to ensure that the board is able to monitor physicians who leave the jurisdiction or who leave the practice in order to ensure continuing competence to practice medicine or surgery;
- (5) Permit licensees to retire and have that fact entered on the record;
- (6) Clarify that the applicant bears the burden of proof in establishing fitness for licensure and permit the board to interview applicants when necessary;
- (7) Provide for the expedited review of judgements, settlements and awards which exceed \$50,000;
- (8) Clarify the content of peer review committee reports which are turned over to the Department of Commerce and Consumer Affairs and to specify what may be expunged from any documents submitted;
- (9) Provide immunity to persons who report to agencies or who investigate misconduct by licensees in order to encourage such actions;
- (10) Provide a procedure of addressing problems such as impairment due to alcohol and drug abuse by allowing for physical or mental examinations, provide for access to the physician's own medical records, and provide the board authority to oversee care, counseling or treatment;
- (11) Provide recognition of hospital quality assurance committees and place them within the structure for reporting problems to peer review committees or to the Department of Commerce and Consumer Affairs.

These changes will, in sum, make substantially certain that the medical profession has done all that it can to reduce the incidence of malpractice by ensuring that physicians who should be disciplined are brought into the disciplinary framework, and that where fitness and competence could be in any question, the board will review the individual case.

Your Committee on Health is in accord with the intent and purpose of H.D. No. 1767-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1767-86, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Leong.
(Representative Liu did not concur.)

SCRep. 176-86

Planning, Energy and Environmental Protection on H.B. No.
2210-86

The purpose of this bill is to appropriate funds for fiscal year 1986-1987 for the reopening of the twelve manually operated State and local air monitoring stations (SLAMS), to be operated by the Department of Health.

Your Committee finds that air quality monitoring stations play an important role in managing the problem of air pollutants in the State. Your Committee further finds that proper enforcement of air quality rules and protection of the public's health cannot be achieved without access to the baseline data these stations provide.

Testimony by the State Department of Health indicated that if the bill were amended to convert three Air Quality Electronic Technicians from Federal position count to State position count, the State funds used for salaries would enable the Department to utilize the Federal funds for the reestablishment and maintenance of several air monitoring stations that have been closed due to lack of funds. Accordingly, your Committee has amended this bill to appropriate \$58,516 for the conversion of three Air Quality Technicians from Federal permanent position count to State permanent position count.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2210-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2210-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 177-86 Planning, Energy and Environmental Protection on H.B. No. 1706-86

The purpose of this bill is to appropriate \$180,000 for the continued development and implementation of the State's hazardous waste program.

Your Committee finds that the State's Hazardous Waste Program, currently managed by the Department of Health, is an important program which is very active and is continually called upon to address questions regarding the handling, shipping and disposal of wastes which may or may not be hazardous. This bill will provide the necessary State matching funds to continue the State's Cooperative Agreement with Region IX of the U.S. Environmental Protection Agency and additional State funds to implement the Resource Conservation and Recovery Act Program. Your Committee finds that continued support toward these programs will enable the Department of Health to improve enforcement and inspection procedures in Hawaii and, in addition, improve the community's awareness and understanding of hazardous waste problems.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 1706-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 178-86 Public Employment and Government Operations and Transportation on H.B. No. 2427-86

The purpose of this bill is to convert to permanent civil service status an exempt employee transferred by the Legislature, under Act 179, S.L.H. 1975, to the Statewide Transportation Planning Office of the Department of Transportation from the Interdepartmental Transportation Control Commission, Office of the Governor.

The Department of Transportation (DOT) testified in support of the bill. Only one incumbent remains from the 1975 transaction. Today the Statewide Transportation Planning Office is a permanent unit within the DOT, comprised of the Department's civil service employees together with the one exempt employee originally transferred from the Office of the Governor. There is, however, no sound rationale for the mixture of exempt and civil service employees, which has been detrimental to morale and operational efficiency.

Your Committees on Public Employment and Government Operations and Transportation are in accord with the intent and purpose of H.B. No. 2427-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 179-86

Public Employment and Government Operations on H.B. No.
2213-86

The purpose of this bill is to eliminate fact-finding from the impasse procedures set forth in Chapter 89, HRS. It also amends the mediation procedure for all collective bargaining units to provide that if the dispute is unresolved 30 days after an impasse is declared, or if the parties cannot agree to final and binding arbitration, the mediator is to inform the Hawaii Labor Relations Board of the remaining issues to be resolved and the Board is to make these issues public. Finally, it amends the arbitration procedure by providing that if a dispute remains unresolved 60 days, rather than 50 days, after impasse, the arbitration panel shall institute final and binding arbitration.

Your Committee received testimony from several governmental agencies and various public employee unions in support of H.B. No. 2213, including the State Office of Collective Bargaining, the Department of Education, Department of Civil Service, City and County of Honolulu, Hawaii State Teachers Association (HSTA), Hawaii Government Employees Association (HGEA) and the University of Hawaii Professional Assembly (UHPA). Testifiers agreed that Hawaii's public sector collective bargaining history illustrates that public employers and exclusive representatives have not utilized the recommendations of a fact-finding panel in settling a contract. In light of the considerable time and effort involved in the preparation of fact-finding documents and reports, the lengthy fact-finding panel hearings, and its ineffective results, both the unions and the employer groups felt it was reasonable to delete the fact-finding provision from the law.

Each of the unions felt that the elimination of fact-finding should be combined with positive changes in Chapter 89, HRS to further improve the mediation process. The HGEA suggested that any party who feels that an impasse exists should be permitted to go to mediation, thereby strengthening "good faith bargaining". The HSTA proposed that mandatory mediation take place during the five to ten days prior to a strike to give the parties one final opportunity to settle. A slightly different approach was taken by the UHPA. Their proposal would enable either party to request mediation without an impasse being declared.

The Hawaii Labor Relations Board (HLRB) also presented testimony to point out that the purpose of fact-finding is to force the parties to evaluate the strengths and weaknesses of their proposals. The HLRB concluded that if the fact-finding process is viewed as a formality and has been unproductive, then the bargaining process should be modified to provide the parties with meaningful opportunities to reach agreement.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2213-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 180-86

Health and Public Employment and Government Operations
on H.B. No. 2589-86

The purpose of this bill is to establish a permanent bilingual health education aide program.

The bilingual health education aide program has been funded on a temporary basis for the past 11 years. The program is designed to meet the needs of immigrants and other limited-English and non-English speaking persons. Bilingual aides have provided support to the Department of Health in its programs dealing with well baby clinics, screening clinics, home visits to tuberculosis and Hansen's disease patients, and outreach, educational and other activities.

The Department of Health, by this bill, seeks to have the bilingual health education aide program made permanent because it is needed to support the department's affirmative action efforts. The bilingual program will assure equal opportunity and access to health care services to those of whom English is a problem.

Your Committees on Health and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2589-86 and recommend

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

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

SCRep. 181-86 Ocean and Marine Resources on H.B. No. 2670-86

The purpose of this bill is to appropriate funds for a grant-in-aid to the County of Hawaii for the "Every Swimmer A Lifesaver Program".

The Department of Planning and Economic Development, BIORTA, Ho'onanea I Ka Ea Kai, The Royal Life Saving Society Canada, and TORCH testified in support of this bill.

The Department recommended that this bill be amended to delete reference to "grant-in-aid" since there is a present contract between the Department and the County of Hawaii for the "Every Swimmer A Lifesaver Program". Moreover, the Department recommended that because of its present contract with the County of Hawaii, that the appropriations be made to the Department directly.

Your Committee amends this bill by deleting the phrase "for a grant-in-aid" on line 4, section 1.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 2670-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2670-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 182-86 Ocean and Marine Resources on H.B. No. 2195-86

The purpose of this bill is to reduce the probability of shark encounters with man by appropriating \$50,000 to finance shark control research activities in Hawaii.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources and a group of twelve weekend skindivers. According to the Department of Land and Natural Resources, any effort to control sharks should be focused on the "inshore" or "nearshore" sharks which come in contact with man's activities more frequently than sharks found in deeper waters. Previous shark control projects temporarily reduced the inshore shark population although it cost approximately \$200 to remove each of the 238 sharks hooked during the most recent shark control project conducted in 1971. Based on today's Consumer Price Index, the Department estimated that this cost could double to \$400 per shark in 1986.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 2195-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 183-86 Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2106-86

The purpose of this bill is to repeal Chapter 187, Hawaii Revised Statutes.

Your Committees find that it is necessary to repeal Chapter 187, Hawaii Revised Statutes in order to provide for the smooth follow-up of organizational changes that have occurred within the Department of Land and Natural Resources pursuant to Act 85, Session Laws of Hawaii, 1981.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2106-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees.

Your Committee also made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2660-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2660-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 186-86 Human Services on H.B. No. 2157-86

The purpose of this bill is to create an office on handicapped persons to replace the present commission on the handicapped.

Your Committee finds that laws dealing with handicapped persons have become very complex. The present commission structure limits the effectiveness of its advocacy role, and decision making on many issues important to the handicapped is often delayed and made cumbersome as a result.

Your Committee believes that an office structure with a director would correct these deficiencies and improve response time on issues important to handicapped persons.

Your Committee has made the following amendments to this bill:

- (1) Psychological treatment has been added to the types of treatment to which handicapped persons are entitled;
- (2) The provisions on the composition of the advisory council have been re-arranged for stylistic reasons. The provision on representation from the various counties has been clarified to reflect that there will be at least one resident from each of the counties. The provision allowing the Governor to modify the council's membership without legislative action was deleted;
- (3) The provisions on functions of the office and its director have been re-organized to clarify that the office has certain powers and duties, and that the director shall be the responsible official in carrying out those powers and duties;
- (4) The provisions on the council's functions have been shortened to clarify its function as an advisory body; and
- (5) An appropriation of \$3,480 has been added to provide for personnel reclassifications which were approved during the previous fiscal year.

Your Committee has also made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Human Services concurs with the intent and purpose of H.B. No. 2157-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2157-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 187-86 Human Services and Health on H.B. No. 1958-86

The purpose of this bill is to provide a mechanism to fund and develop programs in child abuse and neglect prevention. This bill would also allow the State to take advantage of the federal matching funds available through the Child Abuse Prevention Federal Challenge Grant which provides \$1 for every \$3 appropriated by states for prevention programs such as the one authorized by this bill.

Your Committees heard testimony in support of this bill from the Department of Health, Parents Anonymous, Prevent Child Abuse Hawaii, People Attentive to Children, The Junior League of Honolulu, Inc., the Honolulu County Medical Society Auxiliary and several individuals knowledgeable in child abuse and neglect prevention.

Your Committees amended the bill by deleting Section 4 which would have provided for a \$10 surcharge on marriage licenses. Owing to the State's current financial situation, your Committees believed that limiting the surcharge to birth certificates was appropriate at this time.

On the basis of the number of birth certificates issued in 1984, your Committees appropriated \$162,000 for the bill's purpose. Effective July 1, 1986, proceeds from the \$2 surcharge on birth certificates will be deposited in the general fund to replenish the amount appropriated.

Your Committees also amended the bill by citing the correct number for the Public Law which appropriated federal funds for the Child Abuse Prevention Federal Challenge Grant.

Your Committees on Human Services and Health are in accord with the intent and purpose of H.B. No. 1958-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1958-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Leong.

SCRep. 188-86 Planning, Energy and Environmental Protection on H.B. No.
2681-86

The purpose of this bill is to appropriate \$10,000 for fiscal year 1986-1987 toward the administration of a Public Awareness Campaign by the Litter Control Office.

Your Committee finds that much of the public is unaware of the State's ongoing anti-litter program and are unsure as to how they can participate.

Your Committee further finds that in order for an anti-litter program to be truly effective, the public must be made aware, through an effective media campaign, of the many programs and laws regarding litter control. In this regard, your Committee fully concurs with the intent of this bill.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2681-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 189-86 Planning, Energy and Environmental Protection on H.B. No.
2284-86

The purpose of this bill is to allow for the establishment of State standards to protect Hawaii's ground and surface water resources from contamination as the result of leaking underground storage tanks. This bill requires the adoption of standards that are at least as stringent as those adopted by federal rules promulgated under Title VI of the Hazardous and Solid Waste Amendments of 1984.

Your Committee finds that the Federal Hazardous and Solid Waste Amendments of 1984 established new requirements for the regulation of underground storage tanks. Included among the newly established requirements are directives for the development of a notification program; regulations and performance standards for new tanks; and, standards for leak detection, leak prevention and corrective actions. The deadlines set for the development of State standards and regulatory requirements for the underground storage of petroleum and hazardous chemicals are February 1987 and August 1987, respectively.

Beginning in May of 1987, states are allowed to apply to the Federal Environmental Protection Agency for the authorization to operate an underground storage tank program. Your Committee finds that the early adoption of this bill will allow for the timely development of rules by the Department of Health, thereby easing the establishment and inevitable transition of this program toward the benefit of the State and its business community.

Your Committee has amended this bill by respecifying that this Act shall constitute a new part to Chapter 342, Hawaii Revised Statutes, rather than a new

chapter in and of itself. Through this redesignation, the existing penal provisions of Chapter 342, HRS, will apply to this part. Your Committee finds that this penal authority is necessary for the proper regulation and enforcement of this program.

In addition, your Committee has provided the sum of \$25,000, or so much thereof as may be necessary, toward the implementation of this program. Your Committee finds that this appropriation will provide the match for proportional funds to be issued by the Federal government for the program.

Your Committee has also amended the subsection on "notification requirements" by inserting the date: December 31, 1986. In effect, this amendment will require owners of underground tanks (under the conditions specified within the subsection) to notify the Department of Health of existence and condition of these tanks.

Your Committee has also made several amendments to apparent errors in drafting to clarify several sections and to correct inconsistencies.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2284-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2284-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 190-86 Education and Public Employment and Government
Operations on S.B. No. 685 (Majority)

The purpose of this bill is to amend Section 89-6 of the Hawaii Revised Statutes to include part-time employees working less than twenty hours a week, who are equal to one-half a full-time equivalent position, in an appropriate bargaining unit.

Your Committees found from the testimony presented that currently, Bargaining Unit 5 is the only bargaining unit in the State that is unable to represent its part-time workers. The reason for this is because of a quirk in the collective bargaining law. The law specifically states that an exclusive representative can represent workers within its purview who can work 20 hours a week or more. Of the 13 bargaining units, 11 of them adhere to a 40-hour maximum work week and, in many cases, less than 20 hours a week, are exempted from this provision, and the union is able to represent these employees.

However, the contract between the Hawaii State Teachers Association (HSTA) and the State of Hawaii and the Board of Education calls for a 35-hour minimum work week. In an effort to save money, the Department of Education (DOE) currently employs about 330 part-time teachers who work 17.5 hours per week. Because of the quirk in the law, and because the Hawaii Public Employment Relations Board has determined that teachers are different from university professors and thus must be treated differently, these people are not eligible for collective bargaining rights.

Your Committees received testimony in favor of the bill from the Hawaii State Teachers Association (HSTA). Your Committees' concern with the HSTA testimony that part-time employees working less than 20 hours a week, but whose hours are equal to one-half of a full-time equivalent position, should be eligible to be served by the exclusive representative.

Your Committees also received testimony in favor of this bill from a representative of the University of Hawaii Professional Assembly.

Your Committees heard testimony from the DOE against the bill. The Department's concern is that it will open the door for other State employees in other bargaining units who are working less than 20 hours to be included in their respective bargaining units.

The implementation of this bill will involve additional costs for the DOE. Given the current financial picture of the State, the DOE is concerned the monies to implement this bill will detract from other educational programs which also deserve attention. The DOE also believes there is a need to retain the economic flexibility

it currently has with part-time employees.

Your Committees find that there exists an anomaly in the present law that allows a DOE employee whose hours are equal to one-half of a full-time equivalent position to be excluded from representation by an exclusive bargaining representative, while other half-time equivalents in other departments have such representation.

Your Committees believe that such inequities that exist in the law should be corrected.

Your Committees on Education and Public Employment and Government Operations are in accord with the intent and purpose of S.B. No. 685, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Nakasato.

(Representative Anderson did not concur.)

SCRep. 191-86 Education and Public Employment and Government
Operations on H.B. No. 395

The purpose of this bill is to amend section 89-9 and 297-34, Hawaii Revised Statutes, to provide teachers (Bargaining Unit 5), educational officers (Bargaining Unit 6), and excluded employees from these units, with an annual increment and longevity step increase in accordance with the salary schedules negotiated under Chapter 89.

Your Committees found from the testimony presented that since July 1, 1976, public employees have not had an annual incremental or longevity increase in any fiscal year that a negotiated pay increase is effected. The primary concern of the State has been cost. Annual incremental or longevity increases plus negotiated pay increases will definitely have a major impact on cost negotiations. These total costs may be too much for the State to bear.

Your Committees heard testimony in support of this bill from the Department of Education (DOE). This bill would provide movement on the salary schedule of teachers and educational officers. Such movement would help to alleviate the DOE's concern with the adverse effect which the "freezing" of increments has had on employee morale, on the DOE's ability to retain talented and productive personnel, and on the inequities in compensation.

Your Committees heard further testimony from the DOE expressing concern about the State's ability to fund the increments and longevity step increases, especially with the uncertainty of funding created by the Gramm-Rudman Act.

Your Committee received testimony from the Hawaii State Teachers Association (HSTA) in favor of this bill. The granting of increments to teachers and educational officers would acknowledge the many years of service that professionals spend teaching, and in the process, acquire more skills for their professional development. Further, Hawaii is about the only school district in the nation which does not provide for some form of incremental increase. This measure would resolve the inequities for the beginning teacher and create a fairer and more equitable situation for those who have been teaching but have not been able to move vertically on the salary schedule. It will be a significant step in promoting the teaching profession and help to attract and retain those who enter the teaching field.

Your Committees also received testimony in favor of this bill from representatives of the Hawaii Government Employees Association and from the University of Hawaii Professional Assembly.

Your Committees heard testimony from the Office of Collective Bargaining against this bill. The Office of Collective Bargaining expressed concern that this bill would lead other government employee unions to negotiate for the same annual increment and longevity step increase provided to teachers and educational officers. This same concern was expressed by members of your Committees. The Hawaii Government Employees Association representative concurred with the Office of Collective Bargaining that other government employee unions should receive the

same annual increment and longevity step increase.

Your Committees have amended section 89-9, Hawaii Revised Statutes, to change the effective date to September 1, 1987. Your Committees believe this should allow time for a study to be conducted prior to the implementation to address concerns regarding the impact on other bargaining units. Also, this would allow for a review of the fiscal health of the State at the time this bill is to take effect.

Your Committees on Education and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 395, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 395, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 192-86 Public Employment and Government Operations on H.B. No. 1742-86

The purpose of this bill is to appropriate \$150,000 for a study of a "cafeteria benefit plan" for government employees that would allow participants to choose among a number of different alternatives for a mandated benefit type. The study would: (1) define the parameters of a cafeteria benefit plan; (2) evaluate employee response to existing benefits; (3) determine employee preferences on additional benefits; (4) design new benefit packages with the assistance of benefit carriers; and (5) estimate the total cost of a cafeteria benefit plan and its implementation.

Your Committee received testimony from the Board of Trustees of the Public Employees Health Fund in support of this measure. The Board representative emphasized the importance of a study prior to the implementation of a cafeteria benefit plan for State and County employees to determine the variety and levels of benefits to be offered as well as anticipated costs requirements. In addition, the Board representative noted that the study would set the tone for the implementation of a cafeteria benefit plan.

The University of Hawaii Professional Assembly also testified in support of this measure, and maintained that the Board of Trustees' unique position enables it to comprehensively review and evaluate various benefit programs for public employees to develop effective compensation plans, and that a comprehensive study would in this instance provide the best method for evaluating new and creative benefit plans that might be offered to eligible employees.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1742-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 193-86 Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2700-86 (Majority)

The purpose of this bill is to provide for direct and exclusive appeal to the Hawaii Supreme Court of contested case decisions or orders related to Special Management Area (SMA) permits under the coastal zone management program. The bill also provides that these appeals will receive priority over all other civil cases.

Your Committees find that the present process of appeal to the Circuit Court is an inequitable approach to conflict resolution because the time-consuming process causes costly delays and unnecessarily discourages development.

Your Committees believe that this bill would ameliorate the inequities of the current process by eliminating the lengthy process of appeal first to the Circuit Court and then to the Supreme Court. Direct appeal to the Supreme Court would provide, however, the same equitable powers and standard of review presently

available in Circuit Court review under Chapter 91.

Your Committees also believe that elimination of the delay and cost of Circuit Court review will benefit all the parties to these SMA contested case proceedings and the public as well. Citizens' rights to point out detrimental aspects of proposed developments are preserved in the contested case and appeal proceedings.

While in agreement with the intent of the bill to restrict judicial review of SMA permit decisions to the Supreme Court, your Committees believe that the integrity of the objectives and policies of public participation in coastal zone management which are reflected in Section 205A-6 should not be violated. Your Committees have therefore amended the bill to delete the reference to Section 205A-6 in subsection (c).

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.B. No. 2700-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2700-86, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 194-86 Human Services on H.B. No. 2349-86

The purpose of this bill is to establish a State coordinating council on deafness. The bill also establishes a program to coordinate interpreter services and appropriates moneys for the operations of the council.

A State coordinating council on deafness, established by House Resolution 194-80, currently exists within the Department of Social Services and Housing. The current council operates without any funds or staff. By providing for funding and staff, this bill would allow the council to more fully coordinate interpreter services and serve the needs of the hearing-impaired. State agencies that use the interpreter services would also benefit by ensuring that they would be able to provide services to the hearing-impaired, as required by Public Law 93-112, in a cost-effective manner.

The bill, as originally drafted, provided that the coordinating council could have as members those who are providers of services to hearing-impaired persons. Your Committee believes that, in light of Opinion No. 565 issued by the State Ethics Commission on October 9, 1985, persons with an interest in the hearing-impaired, but not officers, directors, employees or consultants of organizations receiving State funds, should serve as members of the coordinating council. Your Committee therefore amended the bill to obviate any ethical considerations for the coordinating council.

Your Committee has also amended this bill to give the council the authority to assess fees on private organizations when interpreter services are used. Your Committee believes that the council should be able to provide services to privately-administered programs on this basis.

The bill was further amended to authorize the council to establish criteria for the qualifications of interpreters. The bill as originally drafted provided for civil service positions and your Committee amended the bill by making the staff exempt from chapters 76 and 77. Technical, nonsubstantive amendments were also made to the bill.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2349-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2349-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 195-86 Human Services and Judiciary on H.B. No. 2219-86

The purpose of this bill is to give the Department of Social Services and

Housing and the State Judiciary the discretion to determine how often criminal history record checks need to be made. In addition, this bill proposes amendments to Section 346-152 of the Hawaii Revised Statutes to change the exclusions to the statutes regulating child care facilities.

Your Committees heard testimony in favor of this bill from the Attorney General, Department of Social Services and Housing, Kindergarten and Children's Aid Association, Pre-schools of Hawaii, People Attentive to Children, Young Women's Christian Association, Hawaii Child Centers, and Hawaii Association for the Education of Young Children.

Under current law, individuals subject to a criminal history record check are required to submit to fingerprinting on an annual basis. These fingerprints, along with the individual's name, are submitted to the Federal Bureau of Investigation for a criminal history record check. Your Committees believe that annual FBI checks are unnecessary, unless the individual leaves the State. Your Committees have therefore amended the bill by requiring name checks on an annual basis and FBI checks where an individual has left the State for a period longer than thirty days.

Your Committees also believe that the Hawaii Criminal Justice Data Center require additional appropriations in order to fully carry out the program of criminal history record checks. Funds for personnel and operating funds, to include \$10,000 for the purchase of a vehicle, have been provided for. The total appropriation of \$60,000 also includes amounts for reimbursement to the county police departments for fingerprinting.

Your Committees further deleted Section 1 of the bill which deals with child care exclusions as your Committees believe that the subject of child care exclusions are better taken up in a separate bill.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 2219-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2219-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Leong.

SCRep. 196-86

Human Services and Health on H.B. No. 2470-86

The purpose of this bill is to appropriate funds to reimburse providers participating in the Medicaid Early Periodic Screening Diagnostic and Treatment (EPSDT) program.

The intent of the EPSDT program is to identify children with physical and mental conditions and to provide treatment to correct or ameliorate the defects and chronic conditions found. The emphasis on preventive health care and early identification and treatment of children with conditions that may lead to chronicity has been proven to be cost-effective. According to a bipartisan congressional study, the Medicaid EPSDT program saves \$2 for every \$1 spent and no fewer than fifteen studies have found that meeting children's unique health needs for preventive services reduces illness and health care expenditures.

Your Committees believe that the "medical home" system for EPSDT will provide the necessary continuity of care and will reduce costs by decreasing inappropriate emergency room and outpatient hospital visits.

Your Committees received testimony in strong support of the bill from the Department of Social Services and Housing, the Department of Health, the Hawaii Medical Association, the Hawaii Public Health Association, the Hawaii Nurses Association and the Hawaii Family Stress Center.

Your Committees support the intent of this bill and have provided for a \$200,000 appropriation in FY 1986-87 to effectuate the purposes of this bill.

Your Committees on Human Services and Health are in accord with the intent and purpose of H.B. No. 2470-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2470-86, H.D. 1 and be referred to the Committee on Finance.

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

SCRep. 197-86 Human Services and Education on H.B. No. 2166-86

The purpose of this bill is to permit the blind and visually handicapped to continue to operate the vending machine concessions at public schools.

Your Committees heard testimony in support of this bill from the Department of Education, Christian Record Braille Foundation, Inc., Hawaii Conference of Seventh-Day Adventists, and concerned individuals from the community.

Since 1973, visually handicapped persons have operated the vending machine concessions in the public school system. In 1981, Act 131 was enacted to secure sites for visually handicapped concessions at the Honolulu International Airport and other state facilities. Act 131 exempted the Department of Education from the requirements of the Act because it had an existing visually handicapped concession program. The Act, however, had the unexpected effect of requiring the DOE to terminate its program upon the expiration of the existing contracts. This bill would permit the DOE to continue its visually handicapped concession program.

Your Committees have amended the bill to limit visually handicapped vending machine concessions to secondary public schools. Your Committees believe that elementary school children might be tempted to spend their lunch and bus money on the vending machines. The bill was also amended to continue to make the price of items sold and any revenue-sharing arrangement for the benefit of school-related program organizations factors in awarding the concession.

Your Committees on Human Services and Education are in accord with the intent and purpose of H.B. No. 2166-86, as amended herein, and recommend that it pass Second Reading and be referred to the Committee on Finance, in the form attached hereto as H.B. No. 2166-86, H.D. 1.

Signed by all members of the Committees except Representatives Hagino, Leong and Nakasato.

SCRep. 198-86 Human Services on H.B. No. 2529-86

The purposes of this bill are to include psychologists in the definition of medical care for Medicaid reimbursement and to provide that an independent determination of mental impairment be made by a psychologist, in addition to the evaluation by a psychiatrist. In the event there is only one determination of mental impairment, the DSSH would be required to obtain a third assessment by another psychologist or psychiatrist. The bill also prohibits any person making a determination of mental impairment from treating the patient.

Your Committee believes that preventing the professional certifying a mental impairment from participating in the treatment of the mental impairment will result in cost-savings.

Under current law, only psychiatrists may certify a mental impairment. The bill, as originally drafted, would provide for subsequent evaluations by at least one psychologist prior to certification. Your Committee believes that the two or three evaluations required by this bill would unnecessarily increase costs by \$400,000 to \$800,000, without any benefit to the patient or the State.

Your Committee believes that the State can realize cost-savings by allowing psychologists to make mental impairment evaluations. The average fee for psychiatrists ranges from \$52 to \$59 per psychotherapy hour compared to \$45 to \$50 for psychologists. Your Committee believes that these potential cost-savings do not come at the expense of quality.

Your Committee finds that psychologists are recognized professionals in the determination of mental disability. Section 704-404, Hawaii Revised Statutes, requires that the sanity panel have at least one psychologist as a member. Psychologists are employed by the Department of Education in diagnostic planning for special education services. In workers' compensation cases, psychologists are routinely asked to make permanent disability ratings. Numerous federal statutes

provide for the use of psychologists in mental evaluations. A psychologist may even be appointed as the Surgeon General of the United States. Given the substantial recognition psychologists have received for their expertise in mental evaluations, your Committee believes that permitting them to conduct evaluations would not diminish the quality of certifications. The bill was therefore amended to allow psychologists to certify mental impairment.

Your Committee, however, had concerns that both psychologists and psychiatrists could miss a physical illness manifesting itself in mental symptoms. Accordingly, the bill was amended to provide for a medical examination to rule out symptomatology that is a result of a physical illness.

Your Committee also amended the bill by adding a new section eliminating the physician referral requirement for psychologists. The governor vetoed S.B. 1443, S.D. 1, which contained the same section. In vetoing the bill, the governor indicated that a demonstration project would be initiated by the DSSH to evaluate the cost-effectiveness of mental evaluations by psychologists. Your Committee included the amendment to provide the governor with the opportunity to enact the cost-saving measure if the demonstration project proves successful.

The bill was also amended to correct technical and stylistic errors.

Your Committee on Human Services concurs with the intent and purpose of H.B. 2529-86, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance, in the form attached hereto as H.B. 2529-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 199-86 Human Services and Consumer Protection and Commerce on
H.B. No. 1925-86

The purpose of the bill is to provide a tax credit against net income tax liability in an amount not to exceed twice the amount paid annually for long term care insurance premiums.

Your Committees received testimony from the Department of Social Services and Housing that \$66,091,000, or nearly 41 percent of FY 1985-86 expenditures under the Medicaid program, were expended for long term care needs. The Department testified that the vast majority of patients currently in nursing facilities in the State are Medicaid recipients or will become recipients after exhausting their own resources. Your Committees believe that if this latter group was covered by long term care insurance policies, they would not need public assistance under Medicaid.

The elderly population in Hawaii continues to grow at a rapid rate. By the year 2000, estimates are that residents 65 years of age or older will equal 14 percent of the total State population. Unless some form of cost-shifting to the private sector takes place, the State budget will be hard-pressed to meet the health care needs of our elderly.

The Department of Taxation testified against the bill but was unable to determine if the potential revenue loss would be offset by the expenditure reduction in the State's Medicaid budget. The Department of Health and the Executive Office on Aging testified in support of the intent of the bill.

The Commission on the Handicapped, the Hospital Association of Hawaii and the Kokua Council for Senior Citizens-Founders' Group testified in support of the bill. The Hawaii Medical Service Association offered to assist your Committees in clarifying certain portions of the bill.

Your Committees believe that long term care insurance will not only ease the burden on Medicaid but will also contribute to the self-support of State institutions such as the County and State hospital system. Providers will also benefit because long term care insurance will increase the pool of private pay patients. Insurers will benefit by tapping a new market with growth potential.

More importantly, the elderly of our State will benefit greatly by being able to protect their assets and being provided with a better opportunity for financial planning of retirement. Additionally, spouses can be protected from a dramati-

cally changed lifestyle. Access to care by the elderly may also be greatly improved as a result of this legislation.

Your Committees amended the bill by specifying that the State Insurance Commissioner issue rules pursuant to Chapter 91, Hawaii Revised Statutes, to establish minimum standards for benefits.

Your Committees recognize that long term care is a new area for the Insurance Commissioner and that, while the National Association of Insurance Commissioners has attempted to increase the knowledge and expertise of all insurance commissioners in this area, there may be some delay in promulgating rules. Your Committees believe, however, that unless minimum standards are promulgated, many of our residents may receive inadequate coverage. Your Committees believe that the services covered, the amount of the daily benefits, the waiting period, the years of coverage, the tax rate assumptions, the prior hospitalization period required, the renewability, cancellation and the exclusion from coverage provisions need to be standardized.

In addition, unless specific caps are placed on the premiums for each age group, neither the purchaser nor the insurer will have an incentive to keep the costs of premiums down.

Your Committees further amended the bill by clarifying that only the insurance coverage exclusively covering institutional health care services are eligible for the credit. Some basic medical plans designed to cover acute care may cover services in a skilled nursing facility. By using the word "exclusively", your Committees wish to clarify that these basic medical plans are not eligible for the tax credit.

Your Committees on Human Services and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1925-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1925-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Kiyabu, Leong and Tom.

SCRep. 200-86 Human Services and Judiciary on H.B. No. 1836-86

The purpose of this bill is to assure that every child in placement six months or longer and under the placement responsibility of the DSSH receive a review from an unbiased third party. The purpose of this substitute care review is to assure that a plan to attain a permanent home for the child is established and carried out in an expeditious manner.

Your Committees believe that a policy to assure permanency planning for youngsters under the placement responsibility of the DSSH should be adopted. This bill would implement this policy by requiring that each child under the jurisdiction of the Department receive a review at least every six months. A judge or judge-appointed body would have to conduct the review eighteen months after placement with the department and every six months thereafter. Your Committees believe that the periodic reviews would be beneficial to the children in substitute care by establishing a systematic procedure for evaluating their placement.

Your Committees amended this bill to more fully comply with the provisions of the federal Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, by providing for the eighteen-month judicial review and by requiring that all reviews be done no less frequently than every six months. The bill was also amended to correct technical and stylistic errors.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 1836-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1836-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Leong.

SCRep. 201-86 Planning, Energy and Environmental Protection and Public
 Employment and Government Operations on H.B. No. 2287-
 86 (Majority)

The purpose of this bill is to establish a Department of the Environment through the realignment and coordination of existing State programs relating to environmental protection and pollution control.

Your Committees find that numerous incidents involving environmental and resource contamination in Hawaii's recent past have revealed the need for the State to move toward a better coordinated and more aggressive program of environmental protection and pollution control. Incidents involving heptachlor, EDB, DBCP, endosulfan, TCP and hazardous waste contamination have uncovered serious weaknesses in the State's capacity to deal with major environmental contamination emergencies. An important issue of concern in many past instances of environmental contamination has been the evident lack of inter-agency coordination and the confusion as to which agencies were responsible for the monitoring, regulation and protection of the State's environment. The inability of the State to respond quickly and efficiently in several past emergencies has led to the erosion of the public's confidence in State environmental programs.

Your Committees find that environmental issues have taken on such intensity and complexity that they deserve priority consideration. Under the current structure, the placement of related environmental programs in different departments creates different priorities and different focuses. Further, the current lack of commitment to environmental objectives at the executive and legislative levels has contributed to a complacent attitude on the part of existing environmental protection programs. Your Committees concur with the Legislative Reference Bureau's 1985 report entitled: "The Feasibility of Environmental Reorganization for Hawaii" in its analysis that a broader-based multidisciplinary planning and coordinating capability will enable the State to approach environmental problems and emergencies in a more aggressive and coordinated posture. In this regard, your Committees support the establishment of a centralized State Department of the Environment.

Your Committees have amended this bill in response to discussion and testimony presented before the Committee as follows:

SECTION 2 of the bill has been amended by deleting from this section, the proposed specific components of the department and by substituting general guidelines and language as to the types of programs to be administered by the department of the environment.

SECTION 8 has been amended to correct the section references cited in the definitions of "center" and "council" under Section 341-2, HRS. In addition, Item 3, relating to Section 341-3, HRS, has been amended to clarify the powers and duties of the department by deleting redundant and ambiguous language; adding duties relating to hazardous wastes and noise; and rearranging the items in a more comprehensible order.

SECTION 10, Item 3, relating to Section 343-5, HRS, has been amended by deleting the provision allowing for appeals to the environmental council in the event of a nonacceptance of an environmental impact statement by an agency.

Your Committees find that the Environmental Council's membership was established to assure a broad and balanced representation of environmental interest across the State. This body, so deliberately constituted, would better serve the public interest by addressing much broader environmental issues rather than confining its expertise and cross section of opinions to the environmental impact statement process. Your Committees find that there is a need for this type of perspective and input at the policy level for the State's environmental protection programs.

Your Committees feel that the Council's rule-making and receipt of appeal functions under the current environmental impact statement process should be deleted inasmuch as these functions would be inconsistent with the Council's advisory role under this bill. In its testimony before the Committee, the Council agreed that the shifting of the Council's rule-making responsibility would free it to focus more directly on its public liaison role and its duty to monitor the progress of all governmental agencies in pursuing the State's environmental goals and policies. Your Committees feel that, under the realignment of functions

proposed in this bill, environmental impact statement nonacceptance appeals would be more appropriately handled by the courts rather than the Department.

SECTION 12 of this bill has been amended by deleting reference to "laboratory analysis". Your Committees feel that the transfer of these functions should be delayed as flexibility is needed to maintain the environmental laboratory analysis capability at the Department of Health in the event that the new department is not able to establish its own laboratory facility in a timely manner and a contractual arrangement for laboratory services is required.

Your Committees have also made several general non-substantive amendments for purposes of clarification.

Your Committees on Planning, Energy and Environmental Protection and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2287-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2287-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Nakasato and Tom.
(Representatives Anderson and Hemmings did not concur.)

SCRep. 202-86 Ocean and Marine Resources on H.B. No. 1087 (Majority)

The purpose of this bill is to establish procedures for the leasing of State marine waters and submerged lands and to guarantee property rights and protection for any activities approved under these procedures.

Under Section 171-53, Hawaii Revised Statutes, the Board of Land and Natural Resources may lease submerged public lands with the prior approval of the Governor and with legislative authorization. However, the law is vague as to whether the water column and the surface waters above the submerged lands are included under this lease. Your Committee finds that a resolution to this issue is needed that would guarantee property rights and protect private activities and that would encourage the development and use of our valuable ocean resources. Such development, however, should only proceed in a manner that ensures the protection of existing uses of our ocean and that is consistent with our ongoing efforts to properly manage our ocean resources.

Towards these ends, your Committee finds that it is desirable for the State to assert its proprietary rights to the water column and surface waters in its jurisdictional relationship with the federal government since the Submerged Lands Act, while implying these rights, does not expressly grant them to the states. In its ongoing study of federal-state jurisdictional relationships, the National Coastal States Organization, has recommended that states should develop a more aggressive posture toward management rights of the water column and surface waters by writing themselves into the picture through the establishment of ocean leasing programs. This bill takes us a step further in that direction.

While in agreement with the intent of the bill to establish procedures for the leasing of State marine waters and submerged lands, your Committee believes that certain improvements should be made to the bill that would: (1) further limit the types of allowable marine activities; and (2) simplify the procedures for granting an ocean lease.

To limit the types of allowable marine activities, your Committee has made the following amendments:

(1) Amended the definition of "mariculture" by limiting it to only research, development, and demonstration activities. This definition was further amended by limiting these activities to the following marine organisms: mahimahi, opae loa (long shrimp), ogo, and limu manauea;

(2) Required that no mariculture lease shall exceed one acre in size; and

(3) Required that no mariculture lease shall exceed five years.

To simplify the procedure for granting an ocean lease, your Committee has deleted section 11 of the original bill in its entirety which would have required

the Board of Land and Natural Resources to first designate certain marine areas suitable for ocean leasing. Under the original bill, all Conservation District Use Applications for leasing could then only be considered within these designated areas. Your Committee believes that a more appropriate and less redundant procedure would be to allow an applicant to initially propose a site for marine activities. This step would then be followed by the preparation of an environmental assessment and an environmental impact statement, if necessary, by the applicant. A public hearing and decisionmaking by the Board would then follow. Your Committee believes that this change would be less costly to the State while, at the same time, guaranteeing protection of our ocean resources.

To incorporate these changes into the bill, the following amendments were made:

(1) Deleted item 1 on page 6 of the original bill which would have required additional information about the individual proposal to be included as part of the Conservation District Use Application. The required environmental assessment-environmental impact statement would provide much more information about the individual proposals; and

(2) Deleted all reference to "designated areas" in the bill.

Other major amendments to the bill include the following:

(1) To ensure that a person doesn't gain control over a large section of the ocean by obtaining multiple one acre mariculture leases, your Committee has:

(a) Required that the Board not approve an application that would result in the same applicant holding leases to adjacent marine waters or submerged lands; and

(b) Specified that applicants must submit a list of all other current leases or lease applications under this chapter in which the applicant has an ownership interest.

(2) To ensure adequate public input, your Committee has added language requiring that all public hearings be held in the county in which the marine waters or submerged lands being proposed for lease are located. Your Committee notes that such provisions are provided for in Section 183-41.

(3) To provide for renewal of leases, your Committee has required the Board to establish procedures that would address this issue.

(4) To clarify the conditions under which a lease may be negotiated with the applicant or granted to the highest bidder, your Committee has amended page 11, lines 18-21 of the original bill, to specify that public auctions should be held for mariculture leases when more than one person expresses an interest in the site.

(5) For clarification purposes, your Committee has:

(a) Deleted the definition of "administrative lease" since that term is not used elsewhere in the bill;

(b) Added a definition of "person", and

(c) Made other changes to correct certain typographic, technical, and stylistic errors.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1087, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1087, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

(Representatives Crozier, Nakata, Isbell and Kamali'i did not concur.)

SCRep. 203-86

Housing and Consumer Protection and Commerce on H.B.
No. 2501-86

The purpose of this bill is to allow the Hawaii Housing Authority to establish a taxable mortgage securities program to assist in the provision of affordable

Transportation are in accord with the intent and purpose of H.B. No. 1756-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 206-86 Planning, Energy and Environmental Protection on H.B. No. 2537-86

The purpose of this bill is to appropriate State funds to the counties to allow for the transfer of jurisdiction over private wastewater treatment and disposal system from the State to the counties.

Your Committee finds that effective July 1, 1987, each county may begin to implement a program for the regulation of sewerage and wastewater treatment systems provided that State funds are appropriated to the counties for the initiation of these programs. As recommended by the Water Quality Management Plans, each county has agreed to assume the authority over private wastewater treatment systems. This recommendation of the Water Quality Management Plans was based on the fact that the counties already have the responsibility for determining land uses and zoning and for approving development plans and building. In this regard your Committee concurs with the intent of this bill.

Your Committee has amended this bill by inserting and revising the sums to be appropriated to the counties toward the implementation of this program. The total sum to be appropriated is \$1,442,740.00.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2537-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2537-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Tom.

SCRep. 207-86 Human Services on H.B. No. 2097-86

The purpose of this bill is to allow the court in custody cases involving domestic abuse to consider whether the best interest of the child requires that custody be awarded solely to the abused spouse. The bill would also prohibit the court from considering evidence that a spouse left the home because of domestic abuse as an indication of instability or abandonment. The bill would also authorize the court to set conditions on visitation, including a requirement of supervised visitations when a temporary restraining order has been issued pursuant to Chapter 586.

Your Committee heard testimony in support of the bill from Victim/Witness Kokua Service of the City and County of Honolulu Prosecutor's Office, the City and County of Honolulu Office of Human Services, and National Organization for Women.

Your Committee believes that spouse abuse can and does have a significant adverse impact on the well-being of children. This bill would ensure that the courts consider this impact when it determines what is in the best interest of the child.

Your Committee is also aware that an abused spouse is often forced to leave the home to avoid further abuse. On occasion, some of these spouses have been portrayed as an unstable parent who has abandoned her family. Your Committee believes that such a characterization is both unfair and improper.

Your Committee also recognizes that ex-spouses often experience domestic violence during child visitations. By authorizing the courts to grant supervised visitations, this form of family violence can be eliminated.

As originally drafted, the bill provided that the court had the discretion to consider whether sole custody to the abused spouse was in the best interest of the child. Your Committee amended the bill to require the court to make this evaluation. At the recommendation of the Family Court, the bill was also amended

to expand the domestic abuse cases subject to the requirement of supervised visitations to include cases pursuant to Section 580-10(d). Your Committee also amended the bill to make the language gender-neutral.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2097-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2097-86, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Leong, Bunda, Lindsey, Cavasso and Liu.

SCRep. 208-86 Human Services on H.B. No. 2238-86

The purpose of this bill is to eliminate the requirement that child care facilities maintain liability insurance. The bill also requires child care facilities that do not have liability insurance to disclose this fact to parents of children under their care.

The tremendous increases in the costs of liability insurance has also affected child care in Hawaii. These increases are being passed on to parents already suffering from the high cost of this necessary service. Your Committee believes that by taking certain steps some immediate short-term relief is possible.

Current licensing regulations require insurance coverage of \$5,000 per child and \$10,000 per occurrence. Your Committee believes that removing the current requirements for coverage as a condition for licensing and leaving the decision on the amount of coverage to the child care facility would be one solution to the problem.

Your Committee was concerned, however, that parents should be made aware if the child care facility has opted not to have any insurance coverage. The bill therefore requires these child care facilities to disclose this information to each parent or guardian.

Removing liability coverage as a condition of licensure also provides the further benefit of allowing the facility to continue to find adequate and affordable coverage without having to close its operation or operate in violation of DSSH rules.

The Department of Social Services and Housing testified in support of this bill. People Attentive to Children (PATCH) and other providers expressed support for this bill.

Your Committee made several amendments to the bill:

(1) The definition of "liability insurance coverage" was amended so as to cover activities away from the facility, such as excursions. Line 8, page 1, was therefore amended to read "negligence to a child during the time the child is under the care of the child care provider";

(2) Line 6, page 2, was amended to change the disclosure requirement to parents or guardians from three to seven working days, to allow the provider more time to mail out the written notification to parents or guardians of the lack, cancellation, or termination of liability insurance coverage;

(3) Lines 11-14, Page 2, were deleted as your Committee believes that the DSSH should not be required to provide the forms for the notification to each parent or guardian of the lack, cancellation, or termination of liability insurance coverage.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2238-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2238-86, H.D. 2, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Leong, Bunda, Lindsey, Cavasso and Liu.

SCRep. 209-86

Human Services on H.B. No. 2506-86

The purpose of this bill is for the Department of Health (DOH) to establish a program for the foster care placement of developmentally disabled adults. The bill also provides for the DOH to issue certificates of approval to qualified adult foster homes. Adult foster homes are those that provide for the care of not more than two adults with developmental disabilities under 55 years of age who will benefit from a family environment, require continued training services, and are public assistance recipients.

The movement to deinstitutionalize Waimano Training School and Hospital began ten years ago. The direction into community-based care spanned a number of services. The major component of foster homes is to care for the developmentally disabled within a family structure that offers supervision, training and nurturing. These homes were licensed by the State as foster boarding homes and compensated through a formula derived from the foster child's Supplemental Security Income (SSI) and a Special Service Cost (SSC) calculated on that person's special needs.

According to present law, however, a developmentally disabled child is no longer eligible for foster care once he or she reaches the age of majority. Unfortunately, once realizing the age of majority, these developmentally disabled persons have nowhere to go. The "aging out" of these developmentally disabled persons within foster homes presents a serious dilemma. They cannot remain with their foster families nor can the foster families continue to receive the Special Service Cost payments covering their care.

Your Committee heard testimony in support of the bill from the State Planning Council on Developmental Disabilities, Commission on the Handicapped, Easter Seal Society of Hawaii, and numerous parents and foster parents of developmentally disabled children.

Your Committee recognizes the difficulty of the situation when the young disabled person may legally be of age yet unable to function as an independent adult. Further, your Committee believes that the arbitrary separation between a foster family and the young adult is a disservice that threatens to overshadow the love, care and guidance being provided in such a relationship.

Your Committee requested the DOH and DSSH to get together on a solution to the problem. Unfortunately, due to the complexity of the matter, the two departments were unable to arrive at a solution.

The departments did arrive at a temporary solution and your Committee amended the bill in its entirety to provide for the following:

- (1) That the DOH be given the authority to license "adult foster care homes" under Section 321-11, Hawaii Revised Statutes, for the period July 1, 1986 to June 30, 1987;
- (2) That the DOH use the rules for child foster boarding homes under authority of Section 346-17, Hawaii Revised Statutes, to license adult foster care homes until June 30, 1987;
- (3) That the DSSH allow a developmentally disabled child to remain in his or her foster home if the child's eighteenth birthday occurs between the effective date of the Act and June 30, 1987;
- (4) That a child foster boarding home be authorized to operate as an adult foster care home until June 30, 1987;
- (5) That the DOH conduct a study on the scope of the problem, alternative solutions to the problem, the adequacy of the payments for developmentally disabled adults in adult foster home settings and the necessary legislation and rules to effectuate the regulation of adult foster care homes; and
- (6) That the sum of \$24,000 be appropriated to carry out the purposes of the Act and the study required.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2506-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2506-86, H.D. 1, and be referred to the

Committee on Finance.

Signed by all members of the Committee except Representatives Leong, Bunda, Kihano, Lindsey, Cavasso and Liu.

SCRep. 210-86 Housing on H.B. No. 55

The purpose of this bill is to exempt holders of Individual Housing Accounts (IHA) from the ten percent tax liability assessed to them upon the termination of their IHA account, if they marry an individual who has had, or currently has any interest in residential real property.

Your Committee finds the the present law penalizes participants in the program by way of an additional tax on those individuals who marry persons with real property interests. In addition, testimony presented indicates that the occurrence of the penalty is oftentimes unforeseeable when the account is opened, and may in fact deter more widespread participation. Moreover, the unintentional inequity which results is apparently causing problems for program administrators who must explain and enforce the program's regulations.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 55, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Leong, Lindsey and Jones.

SCRep. 211-86 Tourism and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2846-86 (Majority)

The purpose of this bill is to appropriate \$500,000 for a study of the social, environmental, economic, and transportation impacts of a convention center complex at each of the following locations: Fort DeRussy, Fort Armstrong, the Honolulu Zoo, and West Hawaii (Big Island).

Your Committees find that limiting the parameters of the proposed study to the sites above-mentioned is at this time premature inasmuch as another vehicle previously considered proposes the establishment of a Site Selection Committee. Therefore, the bill has been amended by deleting the site specific references.

Your Committees on Tourism and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2846-86, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2846-86, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Nakasato, Andrews, Honda, Manegdeg, Anderson, Hemmings, Isbell, Kamali'i and Pfeil.
(Representative Tungpalan did not concur.)

SCRep. 212-86 Planning, Energy and Environmental Protection on H.B. No. 2838-86

The purpose of this bill is to amend Section 2 of Act 145, Session Laws of Hawaii, to allow the State Department of Budget and Finance to issue special purpose revenue bonds for the purpose of assisting Kamakani Ikaika, Inc., or a partnership in which it is a general partner, in the generation of new capitol for the establishment of a ten megawatt wind farm and related facilities.

Your Committee finds that Kamakani Ikaika, Inc. has formed a partnership known as the Kamaoa Wind Energy Partners with Imua Kamakani Corporation and has applied to the Department of Budget and Finance for not more than \$12 million in special purpose revenue bonds. Kamaoa Wind Energy Partners plans to apply for the bond proceeds to establish a ten megawatt wind energy farm. However, questions have been raised in regard to the interpretation of Act 145, SLH, inasmuch as the Act refers to a five megawatt wind farm. This bill will allow for the issuance of bonds toward the construction of the proposed project.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2838-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 213-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2698-86

The purpose of this bill is to amend Chapter 6E, Hawaii Revised Statutes, relating to preservation and disposal of native Hawaiian burial sites and battle areas. The bill also provides for a permit system for examination of prehistoric and historic sites and for the adoption of rules by the Department of Land and Natural Resources (DLNR) relating to the proposed amendments.

Chapter 6E established the Historic Preservation Program in 1966. Your Committee is aware that, since 1966, new situations affecting historic preservation have developed or been recognized, which Chapter 6E does not properly address. Your Committee received numerous testimony from State agencies, private organizations, and individuals who are generally in support of the bill but who have recommended changes to Chapter 6E.

Your Committee therefore recommends the following amendments to the bill:

(1) To add paragraph (3) after line 11, page 1, with the following language: "Taken care of by an accredited depository". The normal course of action allowed when human remains are discovered is reburial. However, your Committee is in agreement that there must be a contingency for removal and archeological and anthropological analysis, with the option of curation in an accredited depository. The study of human bones has provided important information for understanding the health, diseases, and physical attributes of Hawaiian populations not only of the past but also of the present time.

(2) To delete the word "absolute" on line 1, page 2. The protection of physical sites of historic significance, through DLNR's Historic Preservation Program procedures, is not absolute. Professional practice in preserving physical sites can only attempt to maintain in an optimal condition what is determined of historic significance.

(3) To replace the phrase "a physical site", on line 10, page 2, with the term "of historic significance". This is a technical and non-substantive change whose language is more appropriate than the original phrase "a physical site".

(4) To replace the phrase "steps to acquire all physical sites located on private property", on line 11, page 2, with the term "appropriate action to acquire "preservation" zoning determinations for such significant sites". Your Committee is of the opinion that State acquisition of these private properties is not necessary in order to fulfill the purpose of historic preservation. However, your Committee is in agreement that steps to have these physical sites on private properties determined as "preservation" zones would be the appropriate procedure.

(5) To delete subparagraph (13) on lines 7-9, page 7. Your Committee is in agreement that the intent and purpose of this subparagraph is redundant, given the proposed statutory language on lines 12-14, page 2.

(6) To make other technical, non-substantive amendments for the purpose of style and clarity.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2698-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2698-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 214-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2772-86

SCRep. 217-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2834-86

The purpose of this bill is to renovate the historic Linekona School for cultural and economic reasons.

According to testimony by the Board of Education, discussion on the potential use of the Linekona School site is on-going. To date, no formal plans for the use of the School have been forthcoming. The Board supports the bill inasmuch as renovation is deemed necessary.

Your Committee has deferred to your Committee on Finance the matter of an appropriation for the purpose of this bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2834-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 218-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 1851-86

The purpose of this bill is to implement the findings of a feasibility study, as provided in Act 300, Section 20, Session Laws of Hawaii 1985, to develop an air cargo transportation and distribution center at General Lyman Field in Hilo.

Act 300 authorized a feasibility study by the Department of Planning and Economic Development of developing the air cargo center. Your Committee is of the opinion that an air cargo center at General Lyman Field would be an essential facility in economic development of the Hilo area and its people.

Your Committee has deferred to your Committee on Finance the matter of an appropriation for the purpose of this bill. Your Committee has amended the bill, on line 8, page 1, to identify the expending State agency as the Department of Planning and Economic Development. The Department was responsible for contracting out the feasibility study in 1985, and it is also responsible, with the Office of the Mayor, County of Hawaii, to complete the detailed analysis phase of the study.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1851-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1851-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 219-86 Water, Land Use, Development and Hawaiian Affairs and
Judiciary on H.B. No. 2468-86

The purpose of this bill is to provide native Hawaiian individuals and organizations the right to sue in the courts of the State of Hawaii to facilitate the administration of the Hawaiian Homes Commission Act under Article XII of the Hawaii State Constitution.

Your Committees received testimony from various State agencies and private organizations and individuals, all generally in support of the bill. Under current law, native Hawaiians and native Hawaiian organizations are unable to litigate issues relating to protection of their land trust assets in any State court. Your Committees are in agreement that, on the basis of a ruling by the Ninth Circuit Court of Appeals in Keaukaha-Panaewa Community Association v. Hawaiian Homes Commission, 1588, F2d 1216 (1978), because native Hawaiian beneficiaries cannot protect their trust assets, the State's circuit courts are the appropriate judicial forum for expeditious resolution of native Hawaiian land trust asset claims.

Your Committees, however, are of the opinion that the bill is not sufficiently inclusive. Native Hawaiians and native Hawaiian organizations have more than the Hawaiian Home Lands trust assets to protect. The bill, however, specifies that the Hawaiian Homes Commission may be sued and denies judicial access to issues

relating to other public trusts as defined in Section 5(f) of the Admission Act. Your Committees recommend the following amendments to the bill:

(1) To expand the purpose of the bill, in SECTION 1, by including the right to sue on public trusts as defined in Section 5(f) of the Admission Act. This inclusion would provide for conformance of the right to sue to the compact between the State of Hawaii and the United States set forth in the Admission Act and adopted by the State of Hawaii in its Constitution in Article XII, sections 1, 2, 3, and 4.

(2) To add six legislative findings in SECTION 1, to clarify the intent and purpose of recommended amendments in SECTION 2.

(3) To specify the right to sue, in SECTION 2, by adding the following phrase on line 14, page 1, after "State Constitution": "...implementing sections 4 and 5(f) of the Act providing for the Admission of the State of Hawaii into the Federal Union (Act of March 18, 1959, Public Law 86-3, 73 Stat. 4)". This addition identifies the specific reference of public trusts on which the right to sue is to be granted.

(4) To reinforce the right to sue on public trusts as defined in the Admission Act, by adding the phrase "and the Admission Act section 5(f) public trusts" following the term "Hawaiian Homes Commission Act" on line 8, page 2.

(5) To make other technical, non-substantive changes for style and clarity.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Judiciary are in accord with the intent and purpose of H.B. No. 2468-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2468-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 220-86

Water, Land Use, Development and Hawaiian Affairs and
Consumer Protection and Commerce on H.B. No. 2624-86

The purpose of this bill is to assist in stimulating economic activity in Hawaii by providing "venture capital" and the organization through which the capital could be made available to entrepreneurs. The bill further creates a Hawaii Industrial Development Corporation, lays out the duties and responsibilities of the Corporation, specifies its powers, and creates a Hawaii venture capital revolving fund to receive and use moneys for the purpose specified in the bill.

Your Committees are in agreement with the various testimonies presented in support of the bill. The creation of the Corporation should be a catalyst, a magnet, to have investors in addition to the Corporation to join in making Hawaii an attractive society.

Your Committees have amended this bill in a technical sense: the section dealing with an annual audit has been reworded to make such audit mandatory.

Your Committees have not filled in the blank space in the appropriation section of the bill. This will permit your Committee on Finance to consider the subject together with the many other requests being considered by that Committee.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2624-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2624-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Tom.

SCRep. 221-86

Employment Opportunities and Labor Relations on H.B. No.
2770-86

The purpose of this bill is to provide opportunities for people in Hawaii to obtain training for the motion picture and television industry and to promote

culture and the arts. Training in such fields as acting, screenwriting, directing, and production will support and compliment Hawaii's growing importance and involvement in motion picture and television production and will enable a larger number of people to seek jobs and careers in these fields. The provision of training opportunities in motion pictures and television will also advance the State's objective of broadening participation and enlightenment in culture and the arts.

Testimonies heard by your Committee were in favor of this bill. However, reservations about naming a specific company, Pacific Film Institute, for which scholarships would be available was expressed by the Department of Labor and Industrial Relations. Your Committee felt that the merit of this bill did outweigh the reservation expressed by the Department of Labor and Industrial Relations.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2770-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 222-86 Employment Opportunities and Labor Relations on H.B. No.
2223-86

The purpose of this bill is to provide supplemental funding for the Office of Community Services. To offset the anticipated loss of federal funding for this program your Committee has amended the bill to provide for \$620,000 appropriation for fiscal year 1986-87.

The Office of Community Services is funded through the Community Services Block Grant (CSBG). However, in light of the Balanced Budget and Emergency Deficit Control Act, it is expected that funding will be reduced or completely eliminated in the coming months.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2223-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2223-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Nakasato and Oshiro.

SCRep. 223-86 Employment Opportunities and Labor Relations on H.B. No.
1897-86

The purpose of this bill is to authorize each individual or corporate resident taxpayer to claim an income tax credit of an unspecified percentage of wages or salary paid during the first 12 months of a person who has received a degree within one year prior to employment from an accredited institution of higher education in the state and who is employed on a full-time basis. It also provides for an employment agency to claim an income tax credit of \$100 for each successful procurement of full-time employment for the same type of person.

Your Committee recognizes the need to provide employment opportunities for recent college graduates. Since many of our residents also attend mainland schools, your Committee has amended the bill by deleting the requirement which limit the tax credit to those employing graduates of accredited institution of higher education in the State. In addition, your Committee has further clarified the intent of this bill by providing that the tax credit shall be offered to those taxpayers who employ residents of the State who are recent graduates of any postsecondary educational institution.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 1897-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1897-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Menor, Nakasato, Onouye, Taniguchi and Hemmings.

SCRep. 224-86 Employment Opportunities and Labor Relations on H.B. No.
2522-86

The purpose of this bill is to provide for a comprehensive community-based pilot Employee Assistance Program, which will be available to all employers and employees, and which will serve as a model for other future programs.

Local business entities have been losing millions of dollars in lost production due to certain troubled or disturbed employees. This type of employee usually has a continuing and recurrent problem related to either family, legal, and emotional crises, or alcohol dependency or drug abuse ailments.

Testimonies heard by your Committee indicated that companies which have instituted these programs have realized that they will benefit from helping troubled employees.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2522-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 225-86 Employment Opportunities and Labor Relations on H.B. No.
1898-86

The purpose of this bill is to conduct an unified State employment study leading to the formulation of a human resources development policy.

Your Committee finds that coordinating the efforts of the various employment programs in existence at the State, county, corporate, non-profit organizations, and federal levels would be in the best interest of the State. The Commission on Employment and Human Resources testified that the development of an employment functional plan has been approved by the State Plan Policy Council and a bill has been submitted to this Legislature amending the Hawaii State Plan to this effect. The study cited in this bill could be carried out as part of the functional plan process. The Commission suggests that a progress report prior to the 1987 Legislature be submitted since the employment functional plan bill calls for submission of the plan to the 1988 Legislature.

An economist with the First Hawaiian Bank testified that Hawaii is a low-wage service-based economy and must move toward a more stable, diversified, and higher-wage economy which will achieve positive growth in social welfare. Presently wages are depressed and families are forced to have more wage earners in the labor force with 62 per cent of all families in Hawaii being multi-wage earner families. This bill is viewed as a necessary first step that may reverse this trend. Also, passage would alter the perception of Hawaii as being an anti-business State.

Your Committee has amended Section 2 of the bill to provide for a progress report to the Legislature twenty days before the 1987 legislative session and the final report on the study to be submitted twenty days before the 1988 legislative session.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 1898-86, as amended herein, and recommends that it pass Second Reading and in the form attached hereto as H.B. No. 1898-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 226-86 Employment Opportunities and Labor Relations on H.B. No.
2011-86

The purpose of this bill is to expand the current non-charge provisions of the Hawaii Employment Security Law to include situations in which an employer is without fault for a worker's unemployment, to increase the maximum contribution rate for all employers from 5.4 to 5.8 per cent only when the fund is below the adequate level to subsidize non-charging costs, and to include a higher fund

solvency rate when the reserve fund is at a high adequate level.

Your Committee heard testimonies in favor of this bill from the Department of Labor and Industrial Relations, business associations and labor organizations. There was a concern by all testifiers about the 5.4 to 5.8 per cent increase in rates which would go into effect when the funds dropped below the adequate reserve level. The adequate reserve is the amount of money necessary to pay benefits over a one-year period at the highest unemployment rate occurring over the past ten years. Despite the concern generated by the proposed rate increase, the merits of the bill and the fact that the increase is only triggered when the funds fall below the adequate reserve level lead us to forward this bill.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2011-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 227-86 Employment Opportunities and Labor Relations on H.B. No. 2280-86 (Majority)

The purpose of this bill is to amend Part I, Discriminatory Practices, of the Employment Practices Law, to include "mental handicap" as another factor of unlawful discriminatory practices in employment.

Presently, it is unlawful for any employer, labor organization, and employment agency to discriminate in employment against any individual because of race, sex, age, religion, color, ancestry, physical handicap, marital status, and arrest and court record. Other practices made unlawful under this part include discrimination in employment because of absence from work because of emergency national guard call-up or because of assignment of income for the purpose of child support obligations.

The Affirmative Action officer, Department of Health, testified in support of the intent of this bill. However, he recommended that the word "mental" and "physical" be deleted. This will allow more persons to be protected. The Committee is in agreement with this recommendation and will delete "mental" and "physical" from this bill.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2280-86, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as H.B. No. 2280-86, H.D. 1.

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

SCRep. 228-86 Employment Opportunities and Labor Relations on H.B. No. 2008-86

The purpose of this bill is to establish a quarterly wage record system to be administered by the Department of Labor and Industrial Relations to comply with Public Law 98-369, the Deficit Reduction Act of 1984.

On July 18, 1984, Congress passed Public Law 98-369, Deficit Reduction Act of 1984, which included an amendment to Part A of Title XI of the Social Security Act to mandate all states to establish an income and eligibility verification system under which all employers are required, effective September 30, 1988, to make quarterly wage reports to a state agency. The Governor has designated the Department of Labor and Industrial Relations, Unemployment Insurance (UI) Division as the agency to administer the quarterly wage record system.

The five sections of the Hawaii Employment Security Law are amended to:

- (1) allow the UI Division to require employers to submit detailed wage data on a quarterly basis together with their contribution reports;
- (2) eliminate the use of weeks of employment for monetary qualification and

for requalification purposes;

(3) change the base period of claims inasmuch as the quarterly wage record system will not make available wage data to accommodate the current base period; and

(4) establish filing requirements and penalties for failure to submit quarterly wage reports.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2008-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 229-86 Employment Opportunities and Labor Relations and Consumer Protection and Commerce 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. Group self-insurance permit individual insureds, with similar types of operations, to cooperatively provide insurance.

While in agreement with the intent of the bill to provide for workers' compensation self-insurance groups, your Committees believe that appropriations for additional staff positions are necessary to assist the Insurance Commissioner in evaluating self-insurance applicants pursuant to section 386-194(a) of the Act. Your Committees have therefore amended the bill to provide for appropriations which reflect the testimony of the Insurance Commissioner that the sum of \$97,000 would be necessary for the implementation of the Act in the fiscal year 1986-87.

Your Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2549-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2549-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Menor, Nakasato and Tom.

SCRep. 230-86 Employment Opportunities and Labor Relations and Consumer Protection and Commerce on H.B. No. 2169-86

The purpose of this bill is to amend Section 386-8, HRS, to specifically state that only an injured employee or that employee's dependent may take action against another employee of the same employer whose wilful and wanton misconduct caused the industrial injury.

Under current law an employee who is injured in and out of the course of employment is entitled to receive worker's compensation benefits even if the injury was caused by a third party. If a third party caused the injury, the injured worker may commence legal action against the third party. The employer is entitled to be reimbursed from funds received in a third party action. The present statute has been interpreted to permit a third party action against a fellow employee without the injured employee's participation. As amended, the statute would prevent an employer from having to defend the co-employee in a third-party action. It would not affect the injured employee's entitlement to workers' compensation.

Your Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2169-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Metcalf, Nakasato, Souki and Tom.

SCRep. 231-86 Employment Opportunities and Labor Relations and Consumer Protection and Commerce on H.B. No. 2262-86

The purpose of this bill is to include psychologists in the definition of physicians under worker's compensation.

Under the current statute, only health care providers designated as physicians may serve as an injured employee's attending physician. The attending physician is responsible for an injured employee's treatment program. Psychologists are licensed in the State of Hawaii to practice independently. Federal insurance plans, such as CHAMPUS and the Federal Employees Health Benefit Plan recognize psychologists as independent providers of mental health services. Including psychologists in the definition of physicians under worker's compensation will allow patients under CHAMPUS, HMSA and other private insurance plans to obtain the services of psychologists without referral.

Your Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2262-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Menor, Nakasato, Tom and Medeiros.

SCRep. 232-86 Employment Opportunities and Labor Relations and Consumer Protection and Commerce on H.B. No. 2259-86

The purpose of this bill is to make an appropriation for a system definition study of an automated workers' compensation case tracking and monitoring system.

The current workers' compensation computer system does not have "on line" capabilities to track the status of cases. The Department of Labor and Industrial Relations therefore manually retrieves and reviews individual case files to determine its status. The Department has in the past identified the importance of an automated case management system. The 1984 Haldi Associates study reinforced the Department's concern and recommended the program needed a computerized monitoring and tracking system to facilitate rapid processing and adjudication of cases.

This bill was amended to include an additional \$100,000 for a systems analyst to be assigned to the program to insure rapid and efficient development, implementation and maintenance of a system.

Your Committees on Employment Opportunities and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2259-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2259-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Blair, Menor, Nakasato and Tom.

SCRep. 233-86 Employment Opportunities and Labor Relations and Judiciary on H.B. No. 1857-86

The purpose of this bill is to protect the interests, rights and privileges of all individuals within the State with regard to access and use of public accommodations by prohibiting entry discrimination based on age, race, sex, color, religion, ancestry or handicap.

Hawaii is well known for its Aloha Spirit and appreciation for cultural diversity and uniqueness of its people. However, there have been incidents within the State where black members of the U.S. Armed Forces and other visitors have been denied access to public accommodations. Similar incidents have occurred against physically handicapped persons. Testimonies by the National Association for the Advancement of Colored People, Chamber of Commerce-Armed Services Committee, U.S. Coast Guard, American Civil Liberties Union, Commission on the Handicapped, Hawaii Center for Independent Living and others, attest to these

unfortunate events.

Testimony by the Office of Governor, Affirmative Action Program stated that Hawaii should join the other 38 states including the District of Columbia in enacting laws that would be in keeping with Title II of the Civil Rights Act. This would provide persons in Hawaii who have been discriminated against, the opportunity to seek redress in Hawaii rather than with the Civil Rights Office in Washington, D.C. or in another state.

Your Committees have amended H.B. No. 1857-86 by deleting references and functions of the Department of Labor and Industrial Relations from page 5 through page 17 and have made minor grammatical changes.

With respect to the physically handicapped, it is not the intention of this bill to require any public accommodation to construct or reconstruct any facility or part thereof.

Your Committees on Employment Opportunities and Labor Relations and Judiciary are in accord with the intent and purpose of H.B. No. 1857-86, as amended, and recommend it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Blair and Nakasato.

SCRep. 234-86 Employment Opportunities and Labor Relations and Public
Employment and Government Operations on H.B. No. 1780-86

The purpose of this bill is to provide a State Commission on Equal Employment Opportunity and Affirmative Action to increase accountability of departments within State government and to amend existing law to assist in enforcing the purposes of the Commission.

Your Committees have adopted the recommendations of the State Coordinator of the Office of Affirmative Action by making the following amendments: to establish an Office on Equal Employment Opportunity and Affirmative Action with one or more advisory committees in order to more easily accommodate the number of under-represented groups affected; to eliminate proposed budget sanctions for non-compliance which may be premature, and to reduce the number of staff positions from ten to three.

Your Committees on Employment Opportunities and Labor Relations and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No 1780-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1780-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 235-86 Public Employment and Government Operations on H.B. No.
2320-86

The purpose of this bill is to clarify the retirement requirements for credited service and eligibility for public employees who:

- (1) Terminate or retire and then return to government service; and
- (2) Transfer between the noncontributory and contributory plans.

The major changes proposed by this "housekeeping" bill include the following:

- (1) Requirement that total credited service as a contributory and noncontributory member would be used to determine one's eligibility for retirement;
- (2) Requirement that members who retire from the contributory plan and who return government service must remain in the contributory plan from which they retired. Additionally, if a member had less than three years in the second term of employment, the member must elect the same option initially selected;

(3) Clarification of the rights of a member with vested status who subsequently returns to government service;

(4) Clarification of the eligibility for both normal and early retirement benefits for those members with 20 or more years of credited service who terminate from government service prior to reaching retirement age;

(5) Requirement that members with credited service in both plans would have their benefits calculated separately.

Your Committee amended the bill to correct certain technical, drafting errors; no substantive changes were made.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2320-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2320-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Manegdeg, Nakasato, Souki, Tungpalan, Anderson, Hemmings and Medeiros.

SCRep. 236-86 Judiciary on H.B. No. 2221-86

The purpose of this bill is to amend the Child Protective Act, chapter 587, HRS: (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 electronic recording of a child's statement; (3) to provide for the release of certain records; and (4) to make certain technical amendments.

The Child Protective Act was enacted in 1983 to provide prompt protection of children, for reunification of a child with the family, if practicable, and permanent planning to enable a child to develop and mature into responsible, self-sufficient, law-abiding citizens. During the three years since its enactment, many organizations have had a chance to work with the act and as a result have made suggestions to strengthen the act. This bill is a result of all these efforts.

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, HRS), the adoption statute (chapter 578, HRS), and the guardianship statute (chapter 560, part 4, HRS). Under present law, the required use of these separate proceedings has resulted in confusion and unnecessary delays for children and their families. The bill also provides for the admissibility of the electronic recording of a child's statement. With this procedure, further interviewing of the child may occur only upon court order. 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 court records.

Your Committee heard testimony in general support of the bill from the Family Court, First Circuit, Department of the Attorney General, DSSH, Honolulu Police Department, Victim/Witness Kokua Services, and the University of Hawaii, Department of Psychology.

Your Committee made certain technical, non-substantive amendments for purposes of clarity and grammar.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2221-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2221-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 237-86 Judiciary on H.B. No. 2360-86

The purpose of this bill is to amend section 607-5, HRS, to prescribe a fee for

cases remanded from Circuit Court to District Court.

Presently, the Circuit Court does not charge a fee if a case is remanded to District Court from Circuit Court.

The Committee received testimony from the Judiciary in support of the measure. The Judiciary testified that transferring cases requires paperwork and that the fee is necessary to recoup the processing costs.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2360-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 238-86 Judiciary on H.B. No. 2204-86

The purpose of this bill is to amend section 846-29, Hawaii Revised Statutes, to secure information from an applicant for civil identification by requiring documentation, and to provide funding to register applicants for certificates of identification on the neighbor islands.

Under the present law, required information can only be secured from an applicant by personal interview.

Your Committee received testimony from the Attorney General in support of this bill. The testimony indicated that the proposed change would authorize the Department of the Attorney General to require documentation of information to be presented by an applicant for civil identification. The testimony of the Attorney General further indicated that it is expected that the revenue received from fees will far exceed the costs of travel.

Your Committee finds that requiring the applicant to present documentation of required information in addition to a personal interview would ensure that the information is correct and accurate.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2204-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 239-86 Judiciary on H.B. No. 1948-86

The purpose of this bill is to increase the salaries of the justices and judges of the State courts.

The bill amends sections 571-8.2, 602-2, 602-52, 603-5, and 604-2.5, Hawaii Revised Statutes, to provide salary increases for District Court and Family District Court judges, Circuit Court judges, chief judge and associate judges of the Intermediate Court of Appeals, and the Chief Justice and associate justices of the Hawaii Supreme Court, in accordance with the recommendations made by the Commission on Judicial Salaries.

By way of background, the Commission on Judicial Salaries was established in July 1984 by the Governor, Chief Justice, Senate President, and Speaker of the House for the purpose of reviewing and recommending adjustments to the salary schedules for judges and justices. The Commission was charged with the task of reviewing the current compensation structure for justices and judges and recommending salary adjustments based on their findings.

In November 1984, the Commission issued its finding and recommendation to the members of the Legislature in a report entitled, "Report of the Commission on Judicial Salaries". The Commission concluded the present salary structure for the justices and judges is woefully inadequate, and was neither "fair" nor "just", nor was it reasonably calculated to achieve the goals of judicial compensation. These goals established by the Commission were, that compensation should: (1) be commensurate with judicial responsibilities; (2) provide security for the judge and his family; and (3) attract and retain successful and experienced practitioners to

the bench.

Specifically, the Commission recommended: (1) that, in accordance with the recommendation of the American Bar Association, the State should set a goal of compensating its justices and judges at a level comparable with judges of similar responsibility in the federal court system, and (2) that, pursuant to Article VI, Section 3, of the Hawaii Constitution, the Legislature establish a salary commission to review and recommend on an ongoing basis, fair, reasonable, and just salaries for all justices and judges.

The bill proposes the following pay adjustments for the justices and judges: (1) District Court and District Family judge from \$47,520 to \$72,200; (2) Circuit Court judge from \$50,490 to \$76,000; (3) chief judge of the Intermediate Appellate Court from \$53,460 to \$80,400; (4) associate judge of the Intermediate Appellate Court from \$51,975 to \$78,390; (5) associate justice of the Supreme Court from \$53,460 to \$80,400; and (6) Chief Justice of the Supreme Court from \$56,430 to \$84,420.

Your Committee received testimony in support of the bill from Lawrence Okinaga, Esq., Chairman of the Judicial Selection Commission, Prosecutor's Office, City and County of Honolulu, Hawaii State Bar Association, James E. Duffy, Jr., Esq., and Dr. Marvin Anderson, Chairman, Commission on Judicial Salaries.

Mr. Okinaga testified that adequate compensation is important to attract and retain a highly competent and independent Judiciary and that since compensation levels for the Judiciary has fallen substantially behind, the Commission has taken the position that increasing salaries are important to attract and retain good judges. Mr. Okinaga cited that in a recent survey of judicial salaries published by the National Center for State Courts, Hawaii is ranked 48th among the 50 states in its compensation of Supreme Court justices, 36th among the 36 states that have Intermediate Appeal Courts, and 46th among the 50 state trial courts.

Committee members expressed concern with the large increase in salaries in one step and incremental increases were discussed. Concern was also raised with the Commission goal of parity with federal judicial salaries. Some Committee members also disagreed with the five percent pay differential between the District Court and Circuit Court and felt that the differential should be more because the type of cases in District Court are not as complicated as cases at the Circuit Court level.

Your Committee amended the bill to provide incremental pay increases in the following amounts:

	Effective July 1, 1986	Effective July 1, 1987
Supreme Court:		
Chief Justice	74,500	78,500
Associate Justice	73,000	77,000
Intermediate Court of Appeals:		
Chief Judge	70,000	74,000
Associate Judge	68,500	72,000
Circuit Court Judge	63,750	68,000
District Court and Family District Court Judge	60,000	64,000

These recommendations are in accordance with the proposed pay increases in the public officers and employees pay raise bill. Your Committee is cognizant of the fiscal considerations but believes the salary increases are necessary in order to attract and retain qualified judges.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1948-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1948-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 240-86 Judiciary on H.B. No. 1738-86

The purpose of this bill is to amend section 802-5(b), Hawaii Revised Statutes,

to amend the maximum fees for court appointed counsel and to permit stacking of the fee limits if the defendant is charged with more than one count in the same case.

The present law determines maximum compensation for court appointed counsel on a per case basis.

The testimony of the Judiciary indicated that since court statistics are kept in terms of cases, not counts, estimating the additional funds that must be appropriated to pay counsel could present an initial problem with the adoption of the stacking method. The Hawaii Association of Criminal Defense Lawyers (HACDL) submitted testimony in support of this bill. Their testimony indicated that this bill will alleviate some of the financial strain incurred by court appointed attorneys at a reasonably small increase to the State. The HACDL claimed the actual percentage of multiple count trials is very small.

A representative from HACDL cited the case of State of Hawaii v. Shirley Prezeradzki, et.al. in which the court held that the maximum fees for court appointed counsel clearly referred to the criminal case and did not mean by count, by indictment, or by complaint.

Your Committee further amended section 802-5(b), Hawaii Revised Statutes, to set the rate of attorney's fees for both out-of-court and in-court services at forty dollars per hour. Your Committee believes that there is no need to set separate rates for out-of-court and in-court services since the hourly rates are low in comparison with the hourly rates generally charged by the profession.

Your Committee also made an amendment to the bill to reflect changes in the renumbering of paragraphs in the fee limit schedule.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1738-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1738-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 241-86 Judiciary on H.B. No. 2407-86

The purpose of this bill is to require certification of attorneys who desire to practice law in certain specialties.

Presently, there is no restriction on attorneys admitted to the bar. Once an attorney has passed the bar examination and has been admitted to the bar, the attorney may practice in any field of law. An attorney may claim to specialize in a certain field, irrespective of specialized training or knowledge.

The bill would create a new chapter in the Hawaii Revised Statutes appropriately entitled "Legal Specialization". The chapter would establish a board that would have jurisdiction over all matters pertaining to the regulation of specialization and certification in the practice of law.

Your Committee heard testimony in support of the bill from the Prosecutor's Office, City and County of Honolulu, Hawaii Insurers Council, Stanley H. Roehrig, Esq., Raymond Tam, Esq. of the law firm of Shim, Tam, Kirimitsu and Naito, and the Hawaii Academy of Plaintiff's Attorneys (HAPA). The Judiciary and the Hawaii State Bar Association (HSBA) testified in opposition to the bill and the Attorney General expressed reservation with the bill.

The Judiciary was concerned that the bill hastily imposes an elaborate and inflexible regulatory system on the legal profession. Additionally, the Judiciary raised a constitutional question that this legislation will be infringing upon powers of the Supreme Court conferred by the Hawaii Constitution. However, your Committee noted that this constitutional concern has only been raised in dicta or as a footnote in a few cases which does not have the effect of a legal determination of the issue. To the contrary on rules of procedure the Attorney General in Attorney General's Opinion No. 67-9 construing Article V, section 7 (now Article VI, section 7) stated that the constitutional provision "does not place a mandate upon the judiciary to make procedural rules, to the exclusion of the legislature in this field." The Judiciary and the HSBA testified that they have embarked on

an active study on the issue of legal specialization. However, your Committee notes with concern that legal certification has been actively studied by the Hawaii Bar and the American Bar Association in the past with no positive movement toward certification of specialties.

Mr. Tam testified that the bill promotes the self-regulation of the legal profession and would greatly aid the public in selecting attorneys who are competent in their fields of law. Mr. Roehrig testified that with the increasing complexities involved in the practice of law, it is becoming difficult to practice law with reasonable competence without some type of specialization program. Both gentlemen testified that legal specialization would curb frivolous lawsuits which clog up the court system.

The Attorney General and the Prosecutor's Office expressed concern with the provision which prohibits nonspecialists from practicing in a designated specialty. Attorneys in government may be prohibited from representing a government agency if the attorney is not certified. This could be critical to the Attorney General and Prosecutor's Office because usually younger and newly admitted attorneys are employed.

Your Committee finds there is a genuine need for legal specialization which would improve the quality and competence of attorneys and provide legal services at reasonable cost. Your Committee further finds that legal specialization will result in the public image of the bar being improved and the public finding it easier to locate an attorney dealing with specialized problems.

Your Committee is cognizant of the efforts of the Judiciary and the HSBA and will review any certification or specialization program they develop before the effective date of this act.

Your Committee amended the bill by deleting sections -6 and -9. Your Committee did not believe that an advisory commission was necessary. Section -9 was deleted because your Committee felt re-certification was not needed at this time.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2407-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2407-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 242-86 Judiciary on H.B. No. 2482-86

The purpose of this bill is to amend section 709-906, HRS, to require the issuance of a written warning citation to all persons ordered to leave the premises due to evidence of recent abuse of a family or household member.

Under present law, no written warning citation is issued to a person ordered to leave the premises for a twelve hour cooling off period.

Representatives from the Honolulu Police Department, the Prosecuting Attorney, City and County of Honolulu, and the National Organization for Women submitted testimony in favor of this bill. In general, the testimony indicated that a written warning citation would provide proof to the police and courts of the exact time, date and location that a person was ordered to leave.

Your Committee finds that issuance of this written citation would help insure that the twelve hour cooling off period was observed, thus preventing further abuse to the family or household members.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2482-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 243-86 Judiciary on H.B. No. 2446-86

The purpose of this bill is to appropriate \$127,000 for the planning and design

of a statewide juvenile justice information system.

Your Committee received testimony from the Judiciary, the Juvenile Justice Interagency Board, the Department of Social Services and Housing, the Honolulu Police Department, and the Department of the Prosecuting Attorney in support of this bill.

Your Committee finds from the testimony presented that a statewide juvenile justice information system is needed to establish a system that links the police and prosecutors of the various counties, family courts, and the youth correctional facilities to better facilitate the exchange of timely and accurate information. The testimony also indicated that this system will allow the participating agencies to become more efficient and more effective. Your Committee further finds that a unified and integrated system such as this would provide continuity in the apprehension, prosecution, treatment, and punishment of juveniles who commit crimes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2446-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 244-86 Corrections and Rehabilitation and Judiciary on H.B. No. 640

The purpose of this bill is to create a Department of Corrections which would be responsible for the operation of adult and youth correctional facilities, probation supervision, pre-sentence investigation, parole services, intake, and the diagnostic evaluation of adult offenders admitted to correctional facilities.

Your Committees received testimony from a representative of the Department of Social Services and Housing (DSSH) supporting the intent of the bill, noting that it would separate into two departments the vastly disparate missions of human services and public safety, which are now being performed by one department, the DSSH. The DSSH representative testified specifically in support of the transfer of probation supervision and pre-sentence investigation services currently under the auspices of the District and Circuit Courts of the Judiciary, and the transfer of the parole functions of the Hawaii Paroling Authority to the proposed Department of Corrections.

Although testifying in general support of the intent of the bill, the representative of the DSSH submitted another bill for consideration by the Committees having the same intent, but having a number of differences. The bill proposed by DSSH provides for the following:

- (1) The transfer of the Hawaii Youth Correctional Facility to the Family Court System, thus clearly separating the adult and juvenile systems, and recognizing that they serve two distinct target groups having different needs and have different ideological bases;
- (2) The creation of a Board of Corrections having primary representation from the criminal justice system, and serving in an advisory capacity to the Director of Corrections and the Governor;
- (3) The establishment of a three year transition period to plan, coordinate, and phase in the new Department; and
- (4) A \$20,000 appropriation to maintain the Board of Corrections.

In other testimony, a representative of the Judiciary opposed the transfer of the probation function from the courts to the proposed new Department. The Judiciary representative testified that the probation function is currently being provided satisfactorily under the courts. He suggested that the probation and parole functions should not be combined in the same department since interaction between these functions is not necessary except perhaps under an intensive parole program, which has not been implemented.

However, your Committees believe that further study is required before making a final determination of where the probation function should be placed. Accordingly, the bill has been amended to provide for a three year transitional period to phase in the Department, and to study the probation function closely.

Your Committees have made a number of amendments to H.B. No. 640.

These Sections were deleted in total:

- (1) Section 3, relating to probation;
- (2) Section 6, relating to self-liquidating contracts;
- (3) Section 7, relating to juvenile justice;
- (4) Section 8, relating to a juvenile justice interagency board;

These Sections were renumbered:

- (1) Section 5 renumbered as Section 8;
- (2) Section 9 renumbered as Section 23;
- (3) Section 13 renumbered as Section 27;
- (4) Section 14 renumbered as Section 28;
- (5) Section 15 renumbered as Section 29
- (6) Section 16 renumbered as Section 35;
- (7) Section 17 renumbered as Section 38;
- (8) Section 18 renumbered as Section 39;
- (9) Section 19 renumbered as Section 40.

These Sections were revised:

- (1) Section 1, relating to purpose and function
 - (a) Creates an advisory Board of Corrections;
 - (b) Places the Hawaii Paroling Authority within the proposed Department of Corrections for administrative purposes.
- (2) Section 3 relating to:
 - (a) Powers of the Director;
 - (b) Special powers of the Director;
 - (c) Community correctional centers;
 - (d) Intake reception center.

These sections were added:

- (1) New section 5 relating to establishing an office of evaluation and supervision, to the Interstate Parole and Probation Compact, Custody of Federal and Military Prisoners; and amending sections 352-62, 353-71.
- (2) New section 6 relating to Hawaii Paroling Authority.
- (3) New section 7 relating to annual statement.
- (4) New section 8 relating to expenditures for correctional industries program.
- (5) New section 9 establishing correctional industrial division.
- (6) New section 10 relating to the Department of Social Services and Housing.
- (7) New sections 11 through 21 relating to the establishment of industries at the State prison and other correctional facilities.
- (8) Section 22 relating to civil service employees.
- (9) Section 24 relating to presentence diagnosis.
- (10) Section 25 repealing sections 806-72 and 807-73.
- (11) Section 26 amending all references to the Department of Social Services to the Department of Corrections in sections 334-74, 355-4, 355-5, 706-606, 832-23, and all chapters 353 and 354.
- (12) Section 27 relating to the transfer of function of employees.
- (13) Section 28 relating to the transfer of funds appropriated for 1986-1987 to the Department of Corrections.
- (14) Section 29 relating to federal aid.
- (15) Section 30-31 amending all references to the Department of Social Services to the Department of Corrections in sections 334-74, 351-11, 571-48, 706-604, 706-606.1, 706-667, 706-670.5, 706-672.
- (16) Section 32 relating to personnel.
- (17) Section 33 relating to transfer of records, equipment, authorization, and property to the proposed Department of Corrections.
- (18) Section 34 relating to the transfer of funds.
- (19) Section 36 creating a three year transitional period to establish the proposed Department of Corrections.
- (20) Section 37 relating to federal aid bond objectives that are not to be impaired.

Your Committees recognize the relevance of the question raised by the Judiciary

representative as to whether the probation function should remain with the courts or whether it should be transferred to the proposed Department of Corrections. However, your Committees find that the three year transitional period, as provided for above, allows sufficient time for further study of the matter before a final decision must be made.

Your Committees find that there are compelling reasons to create a separate Department of Corrections. Currently the Corrections Division is placed within the organizational structure of the Department of Social Services and Housing, a large department having many other varied functions, such as the administration of housing and welfare programs. The creation of a separate department exclusively for corrections would highlight this most critical function and focus more attention on corrections activities. A Department of Corrections can improve coordination among corrections agencies which oftentimes conduct activities in a fragmentary and disjointed manner. Administrative efficiency can be improved. Furthermore, with improved coordination, the creation of a separate Department could facilitate the attainment of those objectives which the Department of Social Services and Housing considers important, including the development of coordinated corrections standards and goals.

Your Committees on Corrections and Rehabilitation and Judiciary are in accord with the intent and purpose of H.B. No. 640, as amended herein, and recommend that it pass Second reading in the form attached hereto as H.B. No. 640, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Bunda, Hirono, Liu and Medeiros.

SCRep. 245-86 Corrections and Rehabilitation and Higher Education and the Arts on H.B. No. 2138-86

The purpose of this bill is to allow the transfer of administrative responsibility for Hoomana School from the University of Hawaii to the Department of Social Services and Housing effective July 1, 1986.

Your Committees received testimony in favor of this bill from the Department of Social Services and Housing (DSSH), the University of Hawaii, and the Office of Hawaiian Affairs. Your Committees hope that this transfer will result in improvements in the educational programs and greater accountability on the part of DSSH.

Your Committees on Corrections and Rehabilitation and Higher Education and the Arts are in accord with the intent and purpose of H.B. No. 2138-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Nakasato and Cavasso.

SCRep. 246-86 Public Employment and Government Operations and Judiciary on H.B. No. 1991-86

The purpose of this bill is to convert the position of the Director of the Hawaii Criminal Justice Data Center, Department of the Attorney General to civil service status.

According to the Department of the Attorney General, when the Data Center was first established in the Judiciary in 1973, its Director was a contractual hire and exempt from civil service. Although the Data Center eventually evolved into a permanent State agency and later transferred into the Department of the Attorney General, the civil service exemption status for this position continued. Because there is now a need to provide continuity of service as well as to minimize the effect of political influence on this position, the Department testified that civil service status should be granted to the Director.

Supporting testimony was offered by the City and County's Prosecuting Attorney's Office, Honolulu Police Department, the Department of Personnel Services, and the State Intake Service Centers. The State Intake Service Centers emphasized that because of the varying and dynamic needs of individual data systems within the criminal justice system, it is imperative for the Director of the Center

to be in a stable position less subject to political influences.

Your Committees on Public Employment and Government Operations and Judiciary are in accord with the intent and purpose of H.B. No. 1991-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 247-86 Public Employment and Government Operations on H.B. No.
1053 (Majority)

The purpose of this bill is to limit the liability of defendants to their respective percentage share of determined negligence in tort actions. The bill provides for the apportionment of damages among joint tortfeasors based on the degree of negligence assigned to each joint tortfeasor. The bill also specifies that the joint tortfeasors will be jointly and severally liable if it is impossible or impractical to apportion the degree of negligence to each joint tortfeasor.

Hawaii's current joint and several tortfeasors law enables an injured party to collect all damages from any one defendant despite the presence of other defendants found liable.

Your Committee received voluminous testimony in support of the measure. Representatives from the State and county governments, medical professions, hospitals, small businesses, and others expressed strong support for the abolition of the current joint and several liability statute.

The Attorney General testified that the present situation adversely affects the State by making the State liable to pay more than its own share of fault where co-defendants are "judgment proof" or unable to contribute to the judgment. Testimony from the Hawaii Medical Association indicated that the current situation invites lawsuits against those with "deep pockets," such as governments, physicians, hospitals, and others with known financial resources. The Hawaii Hospital Association, the Hawaii Association of Independent Schools, the Hawaii Nurses Association, and others presented testimony documenting their difficulties in their efforts to purchase affordable liability insurance because the current legal doctrine creates an unacceptably large liability exposure problem for their members who fall into the potential "deep pocket" defendant category.

On the other hand, the Hawaii Academy of Plaintiffs Attorneys (HAPA) testified against this measure, expressing concerns that the abolition of the current law might leave an injured person without adequate recourse and compensation.

Your Committee recognizes the concerns of HAPA and supports the right of an injured person to seek recovery in the event of an injury. However, your Committee finds that the current law which permits an injured person to collect the entire award of damages from one defendant regardless of the percentage of fault, is ultimately unfair to those defendants who pay disproportionately more than their share of adjudged fault.

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

(1) Added a new subsection (e) to specify that this bill does not repeal the current comparative negligence statute; and

(2) Replaced the word "negligence" with the word "fault", wherever appropriate, since a party can be a tortfeasor by committing torts other than those torts involving negligence.

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

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1053, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1053, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 248-86 Public Employment and Government Operations on H.B. No.
2748-86

The purpose of this bill is to abolish the present full-time three-member Hawaii Labor Relations Board and to transfer its functions to a part-time commission. In addition, the bill mandates arbitration of complaints alleging a breach of the duty of fair representation by employee organizations.

Your Committee has reviewed and carefully considered the reported decisions of the existing full-time board from June 1971 to 1985. It finds that the caseload of the agency no longer justifies the expenditure of public resources needed to fund the three board members, two attorneys including the executive director, several clerical staff members, and a large hearing room and office complex.

Over its fourteen year existence the present Board averages approximately 14 decisions a year. The salaries of the three members alone equal \$136,620 per year. Prudent fiscal management compels this enactment.

The chairman of the Board in his testimony confirms that with the enactment of Act 251, 1985 Session Laws of Hawaii, the Board has not experienced a great deal of additional work from private sector labor relations. Moreover, changes in Chapter 89, Hawaii Revised Statutes, since 1981 promise to reduce the work load of the Board from the public sector substantially.

For example, service fee cases which consumed a significant portion of Board time numbered forty-nine (49) over a ten year period. Service fee cases are no longer within the Board's jurisdiction under Chapter 89. Due to the maturity of the collective bargaining process in the public sector, significant representation cases have not been filed since 1979.

In anticipation of strikes, the Board has also issued ten decisions on essential workers which define the applicable criteria and identify essential worker positions in many of the major bargaining unit positions in the State and respective counties. Essential worker proceedings can be expeditiously handled by hearings officers employed by a part-time labor relations board without jeopardizing public safety and health.

Your Committee also acknowledges that the Chief Justice of Hawaii's Supreme Court has encouraged the arbitration of civil disputes recently through promulgation of the Hawaii Arbitration Rules which are appended to the Circuit Court Rules of the State of Hawaii. Arbitration has long been recognized as the most effective means to settle disputes in an expeditious and inexpensive manner. Arbitrators are favored by employers and employee organizations alike in resolving disputes involving labor-management relations.

Based on a review of duty of fair representation cases handled by the Board, your Committee believes that the arbitration forum provides a meaningful institutional alternative to minimize public expenses caused by delayed decision-making. To insure prompt and fair resolution of complaints alleging breaches of the duty of fair representation, this measure requires that such complaints be filed within 60 days and that binding arbitration decisions be issued within 180 days of the filing date of complaints.

It is the intent of the Committee to require that all complaints involving duty of fair representation under Chapters 89 and 377 be filed with the Hawaii Labor Relations Board. The Board shall have exclusive jurisdiction over all such claims and shall refer them to binding arbitration as specified in this Act.

The duty of fair representation has been defined in accordance with the United States Supreme Court decision in *Vaca v. Sipes*, 386 U.S. 171 (1967). The arbitrator is authorized to provide meaningful remedies, including the reinstatement of grievances which have been dropped due to a breach of the duty of fair representation.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. 2748-86, as amended herein, and recommends

it pass Second Reading in the form attached hereto as H.B. 2748-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 249-86 Public Employment and Government Operations on H.B. No.
2162-86

The purpose of this bill is to improve Hawaii's economy and foster economic development by authorizing the public employees' retirement system to invest an unspecified percentage of State and local government retirement funds in venture capital investment businesses.

Venture capital businesses refer to the development or commercialization of any commodity, service, product, device, or technique which is or may be commercially viable. Excluded from the term is pure research. Investment vehicles such as housing, construction and planned community development activities are to be given priority by the Employees Retirement System (ERS). The ERS may consult with the Department of Planning and Economic Development and the High Technology Development Corporation in making investments.

The Board of Trustees of the Employees' Retirement System testified that they had no objections to the bill.

While in agreement with the intent of this bill, your Committee believes that the "prudent person investment rule" is applicable to all investments made by the ERS. It states that in the absence of provisions in the statute providing otherwise, it is the duty of the trustee to make such investments and only such investments as a prudent person would make of his own property, having primarily in view the preservation of the ERS' assets and the amount and regularity of income to be derived.

Your Committee has made the following amendments to this bill:

(1) Retitled the new paragraph (10) to read "Hawaii investments" rather than "Venture capital investment businesses through participation in limited partnerships and corporations or in resource investments through limited partnerships, private placements, and corporations".

(2) Limited "Hawaii investments" to "debentures or stocks of new Hawaii corporations and permanent income or equity participating or non-participating first or wrap-around mortgage loans on improved or productive real properties in Hawaii".

(3) Limited the system's total investment in "Hawaii investments" to no more than ten per cent than the total book value of all investments of the system.

Your Committee on Public Employment and Government Operations is in accord with intent and purpose of H.B. No. 2162-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2162-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 250-86 Public Employment and Government Operations on H.B. No.
2618-86

The purpose of this bill is to convert the position in charge of the International Services Branch (ISB), Business and Industry Development Division, Department of Planning and Economic Development (DPED) from exempt to civil service status. H.B. No. 2618-86 further proposes that the incumbent be retained without necessity of examination, and receive all rights, benefits and privileges of seniority, prior service credit, and vacation and sick leave credit. Finally, the employee's salary is to be above the minimum and below the maximum rate of the salary range to which the class is allocated.

The DPED and the Department of Personnel Services (DPS) testified in support of this bill. The DPED pointed out that the affected position was formerly a division head position which has been reclassified to the branch chief level, and

it is the only one of six branch chief positions in the division which is not civil service. Even the division chief is civil service. Thus, the DPED concluded that the ISB chief position should be granted civil service status.

The DPS presented a similar rationale stating the bill provides the ISB with continuity of managerial service and affords the employee with civil service status accorded to all employees in the branch. Although the provisions of preserving rights, benefits and privileges and pay rate are typical of this type of legislation, the DPS presented language to restructure and clarify: 1) the coverage of the position under Chapter 76 and 77, HRS, and 2) the "grandfathering-in" of the incumbent.

Your Committee has adopted the recommendation of the DPS by amending Section 2 of the bill to clarify the issues of civil service coverage and "grandfathering-in" of the incumbent.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2618-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2618-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 251-86 Public Employment and Government Operations on H.B. No. 1028

The purpose of this bill is to limit the liability of State and local governments to their share of fault in tort cases. The bill provides that, if the fault of the State or local governments, including any of their agencies, is less than 100%, they shall only be liable for the proportion equal to their degree of fault.

This bill would eliminate joint or several liability for State and local governments in such suits thereby insuring that the governmental defendant would be liable only for the amount equal to the degree of its fault.

Currently, if a governmental entity is found to be even 1% liable and none of the other joint tortfeasors in the suit are able to pay their fair share of damages, the governmental entity may be forced to pay a percentage of liability much higher than its percentage of fault. This might force the governmental entity to settle for more than its degree of fault would require and might actually encourage suits against a governmental entity. This system essentially requires government to be the insurer for those who are unable to pay for the damage caused through their negligence.

Your Committee received testimony in support of this bill from the Department of the Attorney General, the Hawaii State Association of Counties, and the Department of Transportation. Of particular concern was the fact that governmental entities lack the practical choice or control over whether they will engage in activities which may cause liability. For example, the building, operation, and maintenance of highways, public schools, parks, etc. are mandated. It is not possible for governments to exclude the public from property or activities which may put it at risk as private parties are able to do.

The Hawaii Academy of Plaintiffs Attorneys testified against the bill, maintaining that joint and several liability has enabled the needs of injured parties to be met and has assured reasonable compensation. Additionally, the possibility of a suit against governmental entities is an incentive to prevent negligence by governmental entity under all circumstances.

Your Committee has amended the bill according to the recommendation by the Attorney General. Since Sections 663-11 through 663-17 technically refers to rights between joint tortfeasors and not to payment to the plaintiff, the language has been changed to reflect that the governmental entity shall be liable to any and all other parties to the suit only to the degree of its fault and no more.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1028, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1028, H.D. 1, and be referred to the Committee on Judiciary.

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

SCRep. 252-86 Higher Education and the Arts and Agriculture on H.B. No. 2378-86

The purpose of this bill is to appropriate \$50,000 for fiscal year 1986-1987 to support a collaborative research project between the Texas A & M University, the Institute of Agricultural Engineering (Israel), and the University of Hawaii College of Tropical Agriculture and Human Resources for the development of seedling transplant technology.

Your Committees find that research activities in Hawaii would concentrate on lettuce, but would be linked with similar research on celery and cantalope in Texas and tomatoes and pepper in Israel. The research in Hawaii can achieve a greater rate of progress by drawing upon the advances made in Texas and Israel.

Your Committees also find that the interactions with Texas and Israel will be made possible by funding through the Bi-national Agricultural Research and Development program which is administered jointly by Israel and Washington, D.C.

Your Committees further find that a feasibility study indicated that the head lettuce industry in Hawaii could be increased by almost 100 percent through development and farm adoption of a machine-intensive seedling-block production system. The anticipated productivity gain would enable the Hawaii growers to capture the dominant share of the statewide market, and also be an improvement in the grower's ability to control and predict the amount and timing of output. The proposed technology is transferable to other small-seeded Hawaii grown crops such as broccoli, tomato and romaine, and will intensify the land use by decreasing the use of labor, water, chemicals and fertilizers per unit of output.

Your Committees have amended this bill by making the Governor's Agriculture Coordinating Committee the expending agency.

Your Committees on Higher Education and the Arts and Agriculture are in accord with the intent and purpose of H.B. No. 2378-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2378-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 253-86 Higher Education and the Arts and Public Employment and Government Operations on H.B. No. 2141-86

The purpose of this bill is to provide the University of Hawaii with the flexibility needed to plan and manage its budget in a manner that facilitates timely and opportunistic decision-making, and ultimately improves the quality of instruction, research and public service rendered to the State of Hawaii.

Your Committees believe the University of Hawaii should be granted sufficient authority and responsibility to effectively manage its own internal affairs. This bill will assist the University by removing certain statutory constraints currently placed upon the University by other State departments. Together with the proper leadership, it should enable the University to achieve its potential for excellence, be responsive to the educational needs of the State, and facilitate other State priorities.

More specifically, according to testimony presented by the president, the University of Hawaii should be engaged in such instructional areas outlined in the Strategic Plan as international programs and education, which provide students with a sense of history, politics, humanities and sciences so that they are prepared to take an active role in Pacific-Asia basin affairs. As a public, land grant institution, the University of Hawaii must facilitate other state priorities such as economic development, social welfare, and lower education in conjunction with the appropriate state departments. Through this process, the university can become an integral part of the larger community.

While increased administrative flexibility is now being sought by the University, your Committees are concerned that it may not be capable of handling its own affairs. A management audit conducted by the Legislative Auditor in 1981 and a financial audit conducted by Peat, Marwick, Mitchell and Co. in 1984 revealed substantial problems in the University's overall organization and management. For example, the Legislative Auditor called attention to the need for the university to develop an organizational structure and administrative processes which fixes and enforces responsibility and accountability on a timely and continuing basis. However, it appears that little has been done to correct the problems cited or implement the constructive recommendations contained in the reports.

Closely related to the University's need to fix responsibility and accountability, is its need to replace words and promises with hard information and action. The 1981 Management Audit found that:

...the University has been long on rhetoric and short on performance. In many cases, the right things appear to be said, but on closer inspection they are vaguely stated and indicate that something might be done sometime in the indefinite future rather than what actually and specifically has been done.

At each level within the University, no one should accept statements or presentations which are incomplete and indefinite rather than specific tasks already accomplished, or future activities which have a definite, measurable timetable.

However, in view of the Strategic Plan, the appointment of a new president and the administrative reorganization, your Committees are willing to give the University more responsibility and an opportunity to demonstrate its capabilities. The University is seeking flexibility and claims it does not wish to avoid accountability. Therefore, to allow the administrative flexibility needed, while assuring proper accountability, your Committees have taken two steps to accomplish this objective. First, we have proposed that the amendments set forth in H.B. No. 2141-86 shall "sunset" in three years. The three year period provides for an entire biennium review. Second, we have required a three phase review by the Legislative Auditor to assess the impact of this Act on the quality and effectiveness of the University's academic and administrative programs.

Additionally, it is strongly suggested the university carefully examine certain recommendations contained within the 1981 Management Audit, the 1983 Legislative Auditor's Budget Review and Analysis of the Higher Education (University of Hawaii), and the recent Team Report prepared by the Western Association of Schools and Colleges.

Your Committees have briefly outlined below certain findings contained within the 1981 Management Audit, the 1983 Budget Review and Analysis Report, and the recent accreditation report that warrant prompt attention by the Board of Regents and the University's administration.

1. The Board of Regents and the University administration should examine closely and then overhaul their present approach to policy formulation, execution and followup.
2. The scope of program commitments should be reduced or the level of funding increased in order to preserve the quality of the University's programs.
3. A formal process of academic and curriculum planning must be developed to ensure the orderly growth of the curriculum into areas of student need and the control of program proliferation through the termination of programs no longer justifiable.
4. Ongoing program reviews at the University should be geared to the current services portion of the budget and the results of these reviews summarized in future budget presentations to the Board of Regents and the Legislature.
5. The University should develop a more analytical and need-related approach to the allocation of its resources and equip itself to react more quickly and effectively to changes which occur prior to and during the budget execution period.
6. At the departmental level, the budget process should require and facilitate scrutiny and analysis of current operations as well as any conceptual justifi-

cations that may be developed to support workload increases and program change requests.

7. The process of faculty workload reallocation should be streamlined, and a clear and uniform workload definition should be established for the faculty.

The purpose of the proposed statutory amendments is to achieve a higher quality University and improve the current state of affairs, which is unsatisfactory to all concerned. The Legislature has been asked by the University to give it the opportunity to manage its own affairs and control its own destiny. Your Committees believe increased flexibility is in the best interest of the State; provided however, the University remains fully accountable to the Legislature.

Your Committees have therefore amended the bill as follows:

(a) Nonsubstantive changes were made on page 2, line 16 and page 2, line 18.

(b) Sections 5, 6, and 7 were deleted.

(c) Sections 8 and 9 were renumbered accordingly.

(d) Subsection 37-74(c)(1) was amended by adding "appropriations by the Legislature" to the criteria to be considered by the Department of Budget and Finance.

(e) The proposed amendments to subsection 37-74(d) and the proposed addition of subsection 37-74(e) were deleted, thereby reverting to existing statutory language.

(f) A new section 7 was added to read as follows:

"The Legislative Auditor shall conduct a review of the University in order to assess and evaluate any impact of the provisions of this act on the quality, effectiveness and efficiency of the University's instruction, organized research, public service, academic support, student services and institutional support program areas. Particular emphasis shall be given to student education and service to the community. This review shall be conducted in three phases with an initial report to the 1987 session of the Legislature which shall include an inventory and assessment of the condition of the University prior to implementation of this act; an interim report to the 1988 session of the Legislature evaluating progress made and identifying problems encountered to date within any or all of the six program areas; and a final report to the 1989 session of the Legislature with an overall evaluation and final recommendations on continuation of the provisions of this Act.

Each phase of the review shall also evaluate progress made and identify problems in implementing the recommendations contained in the 1981 Management Audit of the University of Hawaii, the 1983 Report on Budget Review and Analysis of the Higher Education Program (University of Hawaii) and the 1985 Western Association of Schools and Colleges Team Report."

(g) Section 10 was renumbered and amended to provide a three-year sunset provision.

Your Committees on Higher Education and the Arts and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2141-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2141-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Honda, Lindsey, Nakasato, Taniguchi, Anderson, Cavasso, Hemmings, Medeiros and Pfeil.

The purpose of this bill is to allow the Board of Regents of the University of Hawaii to employ attorneys, as necessary, without the approval of the Attorney General and Governor.

Testimony was received by your Committees from a University representative on behalf of the University's Vice President of Administration in support of this measure.

Your Committees are in agreement that given the complexities of the business which the Board of Regents must consider, the Board should be granted the flexibility to seek its own legal counsel in those instances where specialized skills are necessary to protect the University's interest. However it should be noted that it is anticipated that most of the legal requirements of the University will continue to be provided by the Office of the Attorney General.

Your Committees on Higher Education and the Arts and Judiciary are in accord with the intent and purpose of H.B. No. 2139-86 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hirono and Nakasato.
(Representatives Lindsey and Yoshimura did not concur.)

SCRep. 255-86 Higher Education and the Arts on H.B. No. 2608-86

The purpose of this bill is to waive tuition fees for any Hawaii veteran who is an undergraduate student working towards a degree on any campus of the University of Hawaii.

Your Committee has adopted the recommendations of the University of Hawaii by making the following amendments:

(1) On page one, line eight, the words "by the Board of Regents" were added to the sentence describing how, and by what means students would be designated eligible for tuition waivers.

(2) On page one, line 10, the words "not receiving" were changed to "no longer eligible for".

(3) New language was added regarding certification procedures through the Federal Veterans Administration, which would be required at the time of enrollment.

(4) New language was added clarifying that tuition waivers granted under this section shall be in addition to any other tuition waivers authorized under Chapter 304.

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

Your Committee on Higher Education and the Arts is in accord with the purpose and intent of H.B. No. 2608-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2608-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 256-86 Higher Education and the Arts on H.B. No. 2621-86

The purpose of the bill is to support the operations of the Hawaii Youth Symphony Association.

Your Committee received testimony in support of the bill from Arlene Ting, Office Manager of the Hawaii Youth Symphony.

Your Committee is in agreement with the intent of the bill; however, it recognizes the fiscal uncertainty facing the State and has amended the sum to \$4,000.-

Your Committee on Higher Education and the Arts is in accord with the intent

and purpose of H.B. No. 2621-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2621-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Lindsey and Nakasato.

SCRep. 257-86 Higher Education and the Arts on H.B. No. 2744-86

The purpose of this bill is to appropriate \$100,000 to the Hawaii Performing Arts Company for construction of a Manoa Valley Theater.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2744-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Lindsey and Nakasato.

SCRep. 258-86 Higher Education and the Arts on H.B. No. 2694-86

The purpose of this bill is to appropriate \$70,000 to the Music Performance Trust Fund to provide musical events for the people of Hawaii free of charge.

Your Committee received testimony in support of the bill from a representative of the Musicians' Association of Hawaii, who explained that the music industry in the United States and Canada established the Music Performance Trust Fund (MPTF) to promote live musical productions in participatory states. That representative noted that in the past Hawaii was allotted a considerable sum of money from the trust fund, but the drastic slump in the recording industry resulted in a reduction of available funds and a requirement that MPTF funds be matched with funds from other sources.

Your Committee finds that in addition to music enrichment, the bill would produce positive results as it would provide additional employment for local musicians, and could be integrated in a school's music appreciation program. Therefore, your Committee urges the continuation of discussions between the Musicians Union and the Department of Education that have been initiated to have performances offered at public schools statewide with performers sharing their artistic knowledge and musical experiences with students before and after the scheduled performances.

While in agreement with the intent of the bill, your Committee finds that private funds should be sought to provide at least a portion of the matching requirement of the MPTF. Therefore your Committee has reduced the appropriation amount of \$70,000 to \$25,000.

Your Committee has further amended the bill as follows:

- (1) Included public schools, universities, hospitals, and other installations among the places where performances may be held;
- (2) Stipulated that no fees are to be charged for performances;
- (3) Required the MPTF to match the State's appropriation;
- (4) Designated the trustee of the MPTF as the administrator of the appropriated funds; and stipulated that the appropriated funds revert to the State general fund if the trustee of the MPTF declines to administer the appropriation or fails to signify acceptance before July 1, 1986; provided that any remaining balance of the appropriation not be committed for expenditure after April 30, 1987, reverting to the State general fund as soon as all payments of money committed have been made;
- (5) Provided that money from the appropriation be paid out on claims by the trustees similar to other claims against the State;
- (6) Specified that the MPTF trustee use no more than ten percent of the total sum expended for industrial insurance, unemployment compensation, federal taxes

on employment and similar charges; and

(7) Allowed the trustee to expend money from the appropriation for travel expenses for the administration of the appropriation.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2694-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2694-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 259-86 Higher Education and the Arts on H.B. No. 2502-86

The purpose of this bill is to provide a grant-in-aid to Viagem Da Pioanela for a voyage of scientific study in the areas of oceanography, alternate navigational methods, and the humanities; and promotion of economic exchanges.

Your Committee received testimony in support of the bill from Michael Martin, Captain of the Pioanela.

Your Committee concurs with the intent of the bill; however, due to the fiscal constraints facing the State, your Committee is deleting the sum of \$200,000 and is unable to recommend a specific appropriation.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. 2502-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2502-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 260-86 Higher Education and the Arts and Tourism on H.B. No. 2532-86

The purpose of the bill is to provide funding for the expenses of presenting the play "Hear Me, O My people".

Favorable testimony was received by your Committees from Congressman Daniel K. Akaka; Marlene Sai, who performs this one-actress play; and Gard Kealoha, Trustee-at-large of the Office of Hawaiian Affairs. It was suggested that the play would be a valuable way of bringing to the attention of the authorities in Washington the case for Hawaiian reparations.

Your Committees concur with the intent of the bill; however, due to the fiscal constraints facing the State, your Committees are deleting the sum of \$50,000 and are unable to recommend a specific appropriation. Moreover, we believe that any State funds used should cover only a portion of the project, and that the sponsors of the project should seek other funding as well.

Your Committees on Higher Education and the Arts and Tourism are in accord with the intent and purpose of H.B. No. 2532-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2532-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Nakasato, Souki, Anderson and Hemmings.

SCRep. 261-86 Corrections and Rehabilitation and Public Employment and Government Operations on H.B. No. 2327-86

The purpose of this bill is to establish within the Department of Social Services and Housing (DSSH), a Correctional Industries Division to be headed by an administrator with assistance from a Correctional Industries Advisory Board with representation from business and labor representatives. This bill also specifies that revenues generated from correctional industries and deposited into the correctional industries revolving fund may be utilized by the DSSH to defray the

necessary costs of operating and expanding prison industries, such as hiring administrative staff and consultants. This bill deletes the \$350,000 limitation on the gross annual revenue for each industry. However, if the DSSH determines that gross annual revenue for a prospective prison industry will exceed \$350,000, public hearings will still be required prior to the establishment of the industry.

Operation and expansion of correctional industries is highly desirable from the standpoint of reducing inmate idleness, creating useful work opportunities for inmates within the prison facilities and developing self-supporting vocational programs for inmates. The passage of this bill is absolutely necessary to promote the development and expansion of correctional facilities within our prison system.

Your Committees find that this bill would eliminate many of the obstacles which presently impede expansion of prison industries. For example, a serious problem affecting the expansion of correctional industries is the Corrections Division's inability to devote more time and resources to the planning and development of prison industries. This is largely due to the Division's need to focus primarily on addressing issues relating to security and prison overcrowding. Furthermore, there is at present no industries' administrator who can assume the full-time job of formulating and implementing strategies for developing and expanding correctional industries. Another obstacle is the lack of a comprehensive marketing plan for prison industries necessary to ensure effective operation and profitability.

This bill would solve these problem areas by establishing a separate industries division managed by an administrator and an advisory board whose major responsibilities will include operating, expanding, and monitoring correctional industries.

In its testimony on correctional industries, DSSH cited additional obstacles to the expansion of industries. These include an unreasonably low dollar ceiling currently in effect regarding each industry's gross annual production level. This level can easily be exceeded under today's economy. Moreover, corrections' officials provided testimony concerning their present inability to use correctional industries' monies to pay for needed services including marketing studies and surveys and administrative expenses attendant to establishing or expanding an industry. This situation exists because the law, as presently written, is silent on whether corrections industries' monies can be used for such purposes. Your Committees find that these concerns are legitimate, and that this bill directly addresses these problems.

Your Committees further note that other states with more experience than Hawaii in the area of correctional industries have established either separate divisions of correctional industries or prison industry authorities. In fact, this bill is patterned after the California and Utah correctional industries laws. We also point out that the Chairman of your Corrections Committee transmitted a copy of this bill to the Executive Director of the California Prison Industry Authority, Mr. David Craig, who made very favorable comments concerning the bill. Mr. Craig indicated, in conversations with your Chairman of the Corrections Committee, that the creation of a correctional industries division is necessary both to establish correctional industries as a high priority and to provide the industries' administrator with the authority needed to implement his directives within the various prison facilities. An additional observation is that the authority which this bill provides to the correctional industries' administrator enhances the prospect that persons with considerable business expertise will apply for this position.

Your Committees have made the following amendments to this bill:

1. On page 3, to specify that one of the duties of the division is to investigate the feasibility of private industry involvement in the planning and operation of industries;
2. On page 4, to include a representative of the Department of Planning and Economic Development as one member of the advisory board;
3. Delete all references in the bill to an "advisory council" since the body is to be called an "advisory board";
4. On page 6, to include a per diem of \$45 for advisory board members;
5. On page 13, line 23, to insert "unmitigatable";

6. On page 14, line 1, to delete "business, enterprise";

7. On page 22, to insert the dollar figure to \$97,731, to start up the correctional industries division and the advisory board.

Your Committees on Corrections and Rehabilitation and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2327-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2327-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Manegdeg, Hirono, Nakasato and Hemmings.

SCRep. 262-86 Consumer Protection and Commerce and Planning, Energy
and Environmental Protection on H.B. No. 1891-86

The purpose of this bill is to authorize the issuance of special purpose revenue bonds by the Department of Budget and Finance in a total amount not to exceed \$9,000,000 for the purpose of assisting Island Power Company, Inc., in the construction of a hydroelectric powerplant, including a diversion structure, a penstock, two Francis-type turbines and a 12 kv transmission line. The electrical output of the facility will be made available for use by members of the general public by sale to Kauai Electric Company.

Your Committees heard testimony from the Department of Planning and Economic Development and from Island Power Company in support of the bill.

Your Committees, upon further consideration, has amended the bill to delete the description of Island Power Company as an electric utility, and to replace the authority pursuant to which special purpose revenue bonds may be issued. The original bill authorized the issuance of special purpose revenue bonds pursuant to Chapter 39A, part VI, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist utilities serving the general public in providing electric energy. Your Committees find that Island Power Company is not an electric utility and have, therefore, amended the bill to authorize the issuance of special purpose revenue bonds pursuant to part V, Chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

Your Committees on Consumer Protection and Commerce and Planning, Energy and Environmental Protection are in accord with the intent and purpose of H.B. No. 1891-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1891-86, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 263-86 Consumer Protection and Commerce on H.B. No. 1858-86

The purpose of this bill is to amend Section 281-17, Hawaii Revised Statutes, by allowing the Liquor Commission to provide and support programs relating to the enforcement of liquor and liquor-related laws, alcohol education and rehabilitation, and the prevention of crimes involving the use of alcohol. This bill would also amend Section 281-17.5 by allowing the use of license fees collected or received by the Liquor Commission to be used for programs relating to the enforcement of liquor and liquor-related laws, alcohol education and rehabilitation, and the prevention of crimes involving the use of alcohol.

Your Committee received favorable testimony from the Department of Health (DOH), the Department of Finance, City and County of Honolulu, Mayor Hannibal Tavares, Maui Council Chairman Goro Hokama, the Kauai County Council, the Program Director of Hina Mauka, Mothers Against Drunk Driving (MADD), the Hawaii County Council, Mayor Tony Kunimura, and concerned citizens. The DOH, however, expressed concern that the "sole jurisdiction" clause would prohibit it from carrying out its functions and responsibilities for alcohol education and rehabilitation. Accordingly, the DOH suggested that it be allowed to assist the county liquor commissions in planning their programs in order to coordinate a

State-wide alcohol education and rehabilitation program.

Your Committee agrees with the DOH that every effort should be made to coordinate a State-wide program which will address this growing social problem and maximize the use of available funds by preventing duplicative programs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1858-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 264-86 Consumer Protection and Commerce on H.B. No. 2800-86
(Majority)

The purpose of this bill is to amend the Hawaii Revised Statutes by providing a contingency plan to be instituted by the Insurance Commission upon the unavailability of liability insurance by certain businesses or professions in this State.

Liability insurance is a necessary item in the operation of many businesses and professions in Hawaii. Such insurance allows a business to be financially responsible for the risks created in operating the business. Certain businesses and professions today, however, are having a difficult time in obtaining liability insurance -- such as architects, day care centers and other human service providers. It would be unfortunate to have such businesses and professions operate without liability insurance because of the consequences that may result therefrom if an accident should occur. Presently, there is no legislation available to alleviate the problem if liability insurance becomes unavailable to such businesses and professions. House Bill No. 2800-86 would fill this void.

In 1975, the Hawaii Medical Malpractice Underwriting Plan was enacted into law to provide a contingency plan that was to be triggered upon the unavailability of medical malpractice insurance in the State. House Bill No. 2800-86 would operate in a similar fashion -- a contingency plan would be initiated upon the unavailability of liability insurance for certain businesses and professions.

The purpose section of House Bill No. 2800-86 provides examples of businesses and professions that are having a difficult time obtaining liability insurance. To ensure that the bill would not only cover "day care centers", but other human service providers as well, your Committee recommends that the purpose section of the bill be amended to reflect this intent. As amended, the second sentence of the purpose section should read:

"...There is, however, no contingency plan to provide for other businesses or professions such as, but not limited to, day care centers and other human service providers, attorneys, architects, termite and pest control, or liquor licensees, who have difficulty in obtaining liability insurance. ..."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2800-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2800-86, H.D. 1, and be referred to the committee on Finance.

Signed by all members of the Committee.
(Representatives Andrews, Jones and Liu did not concur.)

SCRep. 265-86 Consumer Protection and Commerce on H.B. No. 2495-86

The purpose of this bill is to amend Chapter 239, Hawaii Revised Statutes, to allow a telephone public utility a credit equal to the lifeline telephone rate costs incurred by the utility to be applied against the utility's public service company tax liability. This bill also amends Chapter 269, Hawaii Revised Statutes, to specifically authorize the Public Utilities Commission to allow telephone public utilities to offer lifeline telephone service to eligible residential customers and to prescribe criteria for eligibility for lifeline telephone service and a means for funding such lifeline telephone service.

Your Committee received testimony in support of the general lifeline concept from Hawaiian Telephone Company, the Public Utilities Commission (PUC), Depart-

ment of Budget and Finance, the Department of Commerce and Consumer Affairs, the Executive Office on Aging, the Commission on the Handicapped, Hawaii Centers for Independent Living, Maui Economic Opportunity, Honolulu Community Action Program, Inc., Hawaii County Economic Opportunity Council, Inc., the Moiliili Senior Center Advisory Committee, the Kokua Council of Senior Citizens, the Department of Taxation, Kauai Economic Opportunity and the Maui Economic Opportunity, Inc.

The PUC testified, however, that any legislation for lifeline rates should be limited to a definition of lifeline rates and the method of funding. Further, the details of specifying the target groups, such as the elderly, the handicapped and other groups of subscribers who qualify for lifeline rates, should be assigned to the PUC because conditions may change which may make it more appropriate for changes by administrative rules rather than by legislative acts.

Your Committee, upon further consideration, has amended the bill to reflect the recommended changes proposed by the PUC.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2495-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2495-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 266-86

Consumer Protection and Commerce on H.B. No. 2607-86

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes which would establish a comprehensive framework for permitting foreign bank operations in the State of Hawaii, and establish a temporary commission that would develop and implement a promotional program encouraging foreign banks to establish offices in Hawaii.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department). The Department testified that the bill would address the following eight classes of foreign bank offices:

1. Representative Office - This is not, as a legal entity, separate from the foreign bank. It is often a single individual who serves as a contact point, information gatherer, business promoter and public relations outlet for the foreign bank, all with the primary goal of generating goodwill and business contacts. It may not accept deposits, approve loans, disburse funds or otherwise engage in substantive banking transactions.

2. Nondepository Agency - This is an office in Hawaii at which the foreign bank transacts commercial banking business, except the business of receiving deposits. It cannot exercise fiduciary powers. It may, however, make loans; engage in foreign exchange transactions; buy, sell, pay and collect bills of exchange; issue letters of credit; pay and collect for the foreign bank; sell or issue checks, drafts, travelers' checks, money orders or other similar instruments; and accept credit balances.

3. Depository Agency - This is the same as a Nondepository Agency except it may accept "foreign-source" deposits, that is, deposits of a foreign nation, an agency or administration of a foreign nation, or a person or entity which resides, is domiciled and maintains its principal place of business in a foreign nation. The agency must give notice that deposits are not insured by the Federal Deposit Insurance Corporation.

4. Limited Branch Office - This is the same as a Depository Agency except it may also accept deposits authorized by agreement with the Federal Reserve Board under Section 5(a)(2)(B) of the Federal International Bank Act of 1978 (IBA) (that is, deposits authorized to "Edge Act" corporations or foreign-source and international banking and finance-related deposits). The office must give notice that deposits are not insured by the Federal Deposit Insurance Corporation.

5. Wholesale Branch Office - This is the same as a Depository Agency except it can accept "local" deposits of \$100,000 or more, or other deposits the acceptance of which the Commissioner of Financial Institutions determines by rule do not constitute "retail" deposits requiring deposit insurance protection. The office

must give notice that deposits are not insured by the Federal Deposit Insurance Corporation.

6. Retail Branch Office - This is an office at which a foreign bank may transact a commercial banking business, including the receipt of deposits, yet it may not exercise fiduciary powers. Deposits in such office must be insured by the Federal Deposit Insurance Corporation.

7. Federal Agency - Under the IBA, the Comptroller of the Currency may now award a federal charter to a foreign bank to establish an agency in Hawaii. Generally speaking, the powers of a Federal Agency are no greater than those of a state-chartered Nondepository Agency. A Federal Agency may not accept deposits or exercise fiduciary powers.

8. Federal Branch - Under the IBA, the Comptroller of the Currency may award a federal charter to a foreign bank to establish a branch in any state which permits foreign branches to operate in its jurisdiction (our law now permits foreign "agencies" but not foreign "branches" to operate in Hawaii). Presumably, enactment of this bill would be necessary before a Federal Branch could be established in Hawaii, although an argument could be made to the contrary. A Federal Branch, generally speaking, has the same rights and privileges, including the right to exercise fiduciary powers, as a national bank.

The Department also testified that this bill affords protection to local creditors of a foreign bank doing business in Hawaii by requiring a pledge of "eligible assets" having a value of no less than 5 percent of the adjusted (local) liabilities of the bank's business in the State. The bill further requires a foreign bank's (deposit-taking) branch in Hawaii to maintain eligible assets in an amount up to 108 percent of its adjusted (local) liabilities--the excess over 100 percent is viewed as the equivalent of "capital". The bill also requires that the Commissioner of Financial Institutions consider seven factors before approving an application for an agency or branch office:

1. Character and financial standing of the bank, controlling persons, directors, and officers;
2. Financial history and condition of the bank;
3. Adequacy of management of the bank and proposed management of the office;
4. Probability that the bank will operate the office in a safe and sound manner;
5. Feasibility of the bank's plan to establish and maintain the office;
6. Promotion of the public convenience and advantage; and
7. Reciprocity by the foreign nation where the foreign bank is domiciled.

Your Committee finds that foreign banks are important to the domestic economy and banking system. They are vital to international trade and investment, to the inflow of foreign capital and the outflow of United States goods, the development of more international banking centers across the United States and the stimulation of local business.

Your Committee further finds that Hawaii is now and always has been a "capital poor" state, and many efforts are now being discussed to attract outside capital and new businesses to Hawaii. If Hawaii is to play a meaningful role in international finance, trade and business, we must open our doors to foreign banks.

Your Committee, upon further consideration, has amended the bill by deleting the reciprocity provision on page 21, lines 9-17. It is your Committee's finding that the above amendment will make Hawaii an even more attractive international banking center.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2607-86, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H.B. No. 2607-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 267-86 Judiciary and Public Employment and Government Operations
on H.B. No. 2576-86

The purpose of this bill is to appropriate funds to conduct a statewide asbestos survey of state-owned buildings to determine those buildings in need of remedial work and to assist the Department of the Attorney General in contemplated litigation against asbestos manufacturers.

Your Committees heard testimony in support of the bill from the Department of the Attorney General. The department stated that not all of the building space owned by the State has been surveyed to determine the presence of asbestos. They estimate that between 10,000,000 square feet and 12,000,000 square feet of building space will be included in the survey. The survey would also be used to support proposed litigation against the asbestos manufacturers to recover the cost of removal. The department also testified that the State has already spent \$14,000,000 in removing asbestos in state buildings and plans to spend another \$9,000,000. The department also expressed concern that legislation for litigation expenses related to asbestos be passed.

Your Committees amended the bill to include the sum of \$1.00 to fund the survey and deferred to the Finance Committee to determine the amount of funds available for the survey.

Your Committees on Judiciary and Public Employment and Government Operations is in accord with H.B. No. 2576-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2576-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Nakasato, Onouye and Hemmings.

SCRep. 268-86 Judiciary on H.B. No. 2540-86

The purpose of this bill is to appropriate sixty thousand dollars for the Hawaii Criminal Justice Commission to further its efforts to educate the public in crime, crime prevention, and the criminal justice system.

The Hawaii Criminal Justice Commission testified that the funds would be used for production and television time costs for a series of videotaped 30-second public service announcements and one 30-minute television special designed to educate the public on various aspects of crime. The testimony further indicated that television is the most efficient means of educating the greatest number of people and that videotapes are the most flexible and cost beneficial medium available.

The Prosecuting Attorney, City and County of Honolulu also testified in general support of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2540-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 269-86 Judiciary on H.B. No. 2631-86

The purpose of this bill is to create a computerized data base for the State fingerprint identification system and to appropriate the necessary funds to create this data base.

Your Committee received testimony from the State Attorney General, the Honolulu Police Department, and Daniel Bent, Esq., United States Attorney for the State of Hawaii in support of this bill.

Your Committee finds that a computerized data base could incorporate all fingerprint records now held by the State and county law enforcement agencies into computer memory.

The bill has been amended by your Committee to appropriate the sum of one

dollar for fiscal year 1986-1987, to create a computerized data base for the State fingerprint identification system.

Your Committee is in accord with the intent and purpose of H.B. No. 2631-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2631-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 270-86 Judiciary on H.B. No. 2647-86

The purpose of this bill is to establish a computerized fingerprint identification system through the purchase of an automatic fingerprint identification system and to appropriate the necessary funds to establish this system.

Your Committee received testimony from the State Attorney General, the Honolulu Police Department (HPD), and Daniel Bent, Esq., United States Attorney for the State of Hawaii in support of this bill.

A representative from HPD testified that the automatic fingerprint identification system could identify criminals who would go undetected under current detection methods.

Your Committee finds that modernizing fingerprint evidence processing will increase the speed and accuracy of criminal investigations. Your Committee further finds that a centralized system would make record searches less time-consuming and more efficient.

Your Committee has amended the bill to appropriate the sum of one dollar for fiscal year 1986-1987, to establish a computerized fingerprint identification system.

Your Committee is in accord with the intent and purpose of H.B. No. 2647-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2647-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 271-86 Judiciary on H.B. No. 2752-86

The purpose of this bill is to appropriate \$45,000 to be expended by the Hawaii Bar Association to institute a "Dial Law" program which would provide the public with access to free and informal legal information.

Your Committee received testimony from the Department of the Prosecuting Attorney, the Hawaii State Bar Association, and Hawaii Lawyers Care in support of this bill. In general, the testimony indicated that a program such as this can be a great benefit to the community at large.

Your Committee finds that, if appropriated, the funds would be used for equipment, production costs, and advertising. Your Committee further finds that the "Dial Law" program would enable low income legal service agencies to better serve the poverty level population.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2752-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 272-86 Judiciary on H.B. No. 2337-86

The purpose of this bill is to amend section 291-4, HRS, to have the court require an offender to obtain appropriate treatment if the offender is assessed for alcohol abuse by a counselor.

Under the present law, an offender may be required by the court to obtain appropriate treatment if the offender is assessed by a counselor to have a dependence on alcohol.

Your Committee received testimony from the Department of Health, the Department of the Prosecuting Attorney, Substance Abuse Services Hawaii Counseling and Education Center, Inc., and John Bissell, a private citizen in support of this measure. In general, the testimony indicated that establishing alcohol abuse in the assessment of offenders under this section will enable the identification of problem drinkers who may not be dependent on alcohol but who may benefit from early intervention.

Your Committee feels that having the court require an offender to obtain treatment would eliminate the discretion of the court. Your Committee has therefore amended this bill by keeping the original language of this section to maintain the court's discretion.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2337-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2337-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 273-86 Consumer Protection and Commerce on H.B. No. 2844-86

The purpose of this bill is to amend Section 449-16, Hawaii Revised Statutes, by providing the following: no licensee shall disburse funds from an escrow account until cash and/or items sufficient to fund any disbursements from the account have been received and deposited to the account; no licensee shall disburse funds from an escrow account with respect to the item which has been received and submitted for collection, until final settlement of the item has been received by the financial institution to which the item has been submitted for collection; no licensee shall disburse funds from the escrow account with respect to an item drawn on a financial institution, until the licensee confirms that sufficient collected funds are on deposit in the drawer's account; a definition for "escrow account" has been added; a definition for "item" has been added; a definition for "financial institution" has been added; no licensee shall be liable for a violation that was unintentional or resulted from a bona fide error; and nothing in this section shall be deemed to prohibit the recordation of documents prior to the time funds would be available for disbursement with respect to a transaction.

H.B. No. 2844-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendments providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2844-86, as amended herein, and recommends that it be recommitted to the Committee on Consumer Protection and Commerce for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2844-86, H.D. 1.

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

SCRep. 274-86 Judiciary on H.B. No. 1692-86

The purpose of this bill is to address the growing concern over the increasing number of tort claims and awards and the availability and affordability of liability and malpractice insurance, while protecting the victim's right to just compensation.

H.B. No. 1692-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1692-86, as amended herein, and recommends that it be recommitted to the Committee on Judiciary, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1692-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 275-86 Planning, Energy and Environmental Protection on H.B. No.
2836-86

The purpose of this bill is to effectuate the title of this bill.

H.B. No. 2836-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill, in the long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short form bill may not be helpful, and a notice thereof could be less than meaningful.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2836-86, as amended herein, and recommends that it be recommitted to the Committee on Planning, Energy and Environmental Protection, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2836-86, H.D. 1.

Signed by all members of the Committee except Representative Tom.

SCRep. 276-86 Planning, Energy and Environmental Protection on H.B. No.
2837-86

The purpose of this bill is to effectuate the title of this bill.

H.B. No. 2837-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill, primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill, in the long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short form bill may not be helpful, and a notice thereof could be less than meaningful.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2837-86, as amended herein, and recommends that it be recommitted to the Committee on Planning, Energy and Environmental Protection for the purposes of holding a public hearing thereon, in the form attached hereto as H.B. No. 2837-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 277-86 Consumer Protection and Commerce on H.B. No. 1795-86

The purpose of this bill is to amend Section 514A-96, Hawaii Revised Statutes, to delete the requirement of one yearly unannounced audit of a condominium association's financial accounts.

Your Committee received testimony in opposition from the Real Estate Commission (Commission), the Hawaii Association of Realtors (Association), and Chaney, Brooks & Company. The Commission and the Association believe that the unannounced audit provides for a more meaningful accounting of the association's financial accounts, as well as act as a deterrent to fraud, embezzlement, or misappropriation of funds. Chaney, Brooks & Company testified that the original intent of Section 514A-96, Hawaii Revised Statutes, was to require a surprise confirmation of the association's reported cash as actually being on deposit, and not a full-fledged, costly second audit within each fiscal or calendar year. In lieu of an unannounced audit, the Commission, the Association, and Chaney, Brooks & Company are in agreement that requiring an unannounced cash balance verification will provide the needed protection to members of an association.

Your Committee also received testimony from the Board of Public Accountancy (Board) who recommended that Section 514A-96, Hawaii Revised Statutes, be amended to provide that both certified public accountants (CPAs) and public accountants (PAs) may conduct audits.

Your Committee, upon consideration, agrees that one yearly unannounced cash balance verification, in lieu of an unannounced audit, will provide the needed protection to members of an association. Your Committee agrees, also, that both certified public accountants and public accountants may conduct audits.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1795-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1795-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 278-86 Consumer Protection and Commerce on H.B. No. 1907-86

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, to extend the Boxing Commission for an additional six years from December 31, 1986, to December 31, 1992.

Your Committee received favorable testimony from the Hawaii State Boxing Commission.

Your Committee has amended the bill by making nonsubstantive drafting amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1907-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1907-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 279-86 Consumer Protection and Commerce on H.B. No. 1826-86

The purpose of this bill is to add a new section to Chapter 281, Hawaii Revised Statutes, to allow individuals or organizations who sell intoxicating liquors for fundraising or special event purposes to be exempt from having to secure a special permit license as required by section 281-31, Hawaii Revised Statutes.

Your Committee received testimony in opposition from the Liquor Commission, City and County of Honolulu. The Commission testified that the passage of H.B. No. 1826, as drafted, would permit unethical individuals to undermine the intent of the bill.

Your Committee questioned the process time, as well as several of the requirements to acquire a special license. In particular, your Committee questioned the

Commission as to why it was not possible to promulgate rules which would alleviate the excess paperwork and cut down on the permit acquisition time for legitimate fundraising and special event activities. The Commission responded that it was statutorily restricted from promulgating rules which would contravene the intent of the law.

Your Committee, upon further consideration, has amended the bill by providing statutory language which would allow the Commission to promulgate rules and procedures to carry out the intent of H.B. No. 1826.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1826-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1826-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 280-86 Consumer Protection and Commerce on H.B. No. 1797-86

The purpose of this bill is to amend Section 445-96, Hawaii Revised Statutes, to provide that any person who keeps a lodging or tenement house, hotel, boarding-house, or restaurant without a license under Sections 445-91, 445-92 or 445-93, Hawaii Revised Statutes, shall be guilty of a misdemeanor.

Your Committee received favorable testimony from the Department of Health (Department). The Department suggested that the fines be increased in order to discourage unlicensed activity.

Your Committee, upon further consideration, has increased the fines from not less than \$10 nor more than \$100 to not less than \$100 nor more than \$1,000.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1797-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1797-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 281-86 Consumer Protection and Commerce on H.B. No. 1316

The purpose of this bill is to amend Section 481B-5, Hawaii Revised Statutes, to allow any person engaged in the business of offering goods for sale at retail to have a policy to: (1) accept the return of goods for refunds and allow for the exchange of goods; (2) allow for the exchange of goods only; or (3) neither accept the return of goods for refunds nor allow for the exchange of goods.

Your Committee received favorable testimony from the Retail Merchants of Hawaii (RMH) and the Hawaii Food Industry Association. The RMH testified that present statutory language does not allow a merchant to accept exchanges. Accordingly, the merchant must either make a full refund or deny a refund based upon posted conspicuous signs bearing the words "No refunds" or "All sales final".

Your Committee also received testimony from the Office of Consumer Protection who noted that the bill proposes a significant departure from the legislative policy currently codified in Section 481B-5, Hawaii Revised Statutes. A review of the legislative history of Section 481B-5, Hawaii Revised Statutes, indicates that the Legislature intended to require merchants who accept the return of goods to refund the full amount paid for such goods, and not merely to offer an exchange for the goods. The relevant report of the House Committee on Consumer Protection and Commerce (Standing Committee Report No. 329, March 6, 1975) states:

"According to testimony received by your Committee, some merchants accept return of goods but instead of a refund, give a credit which requires that another purchase be made to which the price of the returned goods will be credited. In such situations, a consumer may be forced to make an unwanted purchase, and your Committee is of the opinion that the practice should be discouraged."

Similarly, House Bill No. 1316 may force the consumer to make an "unwanted

purchase" if a merchant accepts the return of goods for exchange only and the consumer is unable to find a suitable item for exchange.

Your Committee, upon further consideration, in light of submitted testimony from the Office of Consumer Protection, has amended proposed subsection (e) as follows:

"(e) Any person engaged in the business of offering goods for sale at retail who allows for the exchange of goods only, shall post conspicuous signs in his place of business bearing the words "Exchanges only, no exchanges after 30 days from date of (insert "purchase" or "delivery", as appropriate) to inform customers of the limitation of the period during which the return of goods will be accepted."

It is the intent of your Committee that the above-stated amendment will prevent the situation where customers will be forced to make "unwanted purchases" because they are unable to find a suitable item for exchange.

Your Committee has also deleted the phrase "...or words or phrases of similar import..." on page 3, lines 2-3 and line 11, for purposes of style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1316, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1316, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 282-86 Consumer Protection and Commerce on H.B. No. 2036-86

The purpose of this bill is to amend Section 464-8, Hawaii Revised Statutes, to delete the requirement of passing a "qualifying written examination" as a requirement for surveyor registration.

Your Committee finds that the Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects (Board) has, for a number of years, used a Board produced examination as a requirement for surveyor registration. This local examination consists of a Part I eight-hour qualifying examination and a Part II twelve-hour professional examination.

In its 1983 Sunset Evaluation Report of Professional Engineers, Architects, Surveyors and Landscape Architects, the Legislative Auditor noted deficiencies with the Board-constructed surveyors examination and recommended that the Board utilize a national examination for surveyors and supplement it with a local examination on Hawaii land matters only.

Presently, the National Council of Engineering Examinations (NCEE) sponsors a two-part professional national examination for land surveyors. The first part consists of an eight-hour "fundamentals" examination which is equivalent to the Board's "qualifying" examination. The NCEE, aware of the various regional and state differences in land surveying practices, sponsors only a four-hour "principles and practice" examination for the second part of its national examination. This four-hour examination is equivalent to a portion of the Board's "professional" examination. Under current arrangements with several states, the NCEE allows individual states to develop their own supplemental examinations which are tailored to test applicants on local surveying practices and procedures.

Your Committee received favorable testimony from the Board. The Board testified that in order for it to adopt the Legislative Auditor's recommendation, reference to the "qualifying written examination" as contained in Sections 464-8(11) and (12), Hawaii Revised Statutes, should be deleted with the remainder of the subsections referring to passage of a professional examination as a requirement for surveyor registration. The "professional" examination to be specified in the Board rules shall be the NCEE national examination to be supplemented by an eight-hour local professional examination designed specifically to test applicants on their knowledge of Hawaii land surveying practices, conditions, and problems.

Your Committee, upon further consideration, has deleted the phrase "...or oral or both", wherever there was reference made to provide both a written or oral examination, or both. The statutory language is obsolete because oral examina-

tions are no longer given.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2036-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2036-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 283-86 Consumer Protection and Commerce and Judiciary on H.B.
No. 1869-86

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to provide for the regulation of alarm businesses. This bill will establish minimum standards of conduct and responsibility for companies that deal in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system in or on any building, place, or premises, except motor vehicles.

In 1984, the Honolulu Police Department (Department) responded to about 2,100 false alarm calls each month. These false alarm calls represent a tremendous drain of resources for the Department. Therefore, in an effort to address the problem, this bill provides that:

1. Alarm companies will have to demonstrate financial responsibility which will, in turn, discourage unethical dealers of unreliable alarm systems;
2. Upon request by the Department, alarm companies will have to share data about false alarms and alarm systems in operation in order to determine the monthly false alarm rate for each alarm business; and
3. Each alarm system shall post the name, address and telephone number of the alarm business that is maintaining, servicing or monitoring the system.

Your Committee received favorable testimony from the Office of Consumer Protection, the Honolulu Police Department and the Hawaii Burglar and Fire Alarm Association.

Your Committee, upon further reconsideration, has made the following typographical and nonsubstantive amendments:

1. On page 2, line 7, "massage" has been amended to read "message";
2. On page 2, line 9, "activated" has been amended to read "activation";
3. On page 4, line 11, "s" has been added to the word "alarm";
4. On page 5, line 4, "even" has been amended to read "event";
5. On page 6, line 2, the phrase "an uninstalled" has been deleted and the word "a" has been inserted; and
6. On page 6, the effective date has been amended to read "one hundred eighty days after its approval".

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 1869-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1869-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 284-86 Consumer Protection and Commerce and Judiciary on H.B.
No. 1183

The purpose of this bill is to add a new section to Chapter 632, Hawaii Revised Statutes, to require an insurer bringing a declaratory judgment action against its insured to join as parties in the action any person that will be affected by the declaratory action.

Your Committees received favorable testimony from the Hawaii Academy of Plaintiff's Attorneys and the Hawaii Insurers Council. The Hawaii Insurers Council pointed out, however, that the proposed language in the bill would require an insurance company to anticipate every defendant that the plaintiff might possibly bring into the court action.

Accordingly, your Committees, upon further consideration, have made the following amendment:

(1) On page 1 lines 8 through 9 the phrase "any person that will be affected by the declaratory relief action" has been replaced with "the claimant, or if the claimant is deceased, the claimant's spouse and estate".

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 1183, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1183, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 285-86 Judiciary on H.B. No. 1689-86 (Majority)

The purpose of this bill is to provide a means by which a person may appoint another person to make medical or health care decisions.

This bill is the counterpart to H.B. No. 1688-86. Under H.B. No. 1689-86, a person (the "principal") may designate another person to act as attorney-in-fact for the express purpose of making medical or health care decisions for the principal in the event the principal becomes incapable of making a decision to accept or refuse medical treatment. The bill further provides that the attorney-in-fact has priority over any other person for all health care decisions.

Your Committee heard testimony supporting the bill with certain amendments from the Department of Health, Executive Office on Aging, Hawaii Nurse's Association, Hospital Association of Hawaii, the Hawaii Medical Association, Queen's Medical Center, and Lawrence Heintz.

Your Committee finds there is a need for a mechanism allowing a person to designate another person to make important medical or health care decisions in the event of incompetency.

Your Committee intends that health care providers who act in accordance with the instructions of the attorney in fact and who believe the instructions are consistent with the principal's desires should not be subject to liability.

Your Committee desires to make it explicitly clear that this bill does not condone "euthanasia" or "mercy killing". Your Committee directs your attention to section 560:5-615 which provides that nothing in this chapter shall be construed to condone, authorize, or approve mercy killing or euthanasia.

After discussion, your Committee amended this bill as follows:

1. Add definition of "incompetent person". Your Committee found the term was used in the bill but not defined.

2. Deletion of requirement that witnesses cannot be entitled to any portion of principal's estate. Your Committee felt that a witness may not know if he/she is entitled to any portion of the principal's estate at the time he/she witnessed the durable power of attorney.

3. Deletion of the requirement that a patient advocate or ombudsman witness a durable power of attorney executed by a patient in a long term care facility. Your Committee feels the proposed statutory mechanism provides many safeguards so that this extra requirement is not necessary.

4. Addition of a section relating to the effect of a person having a durable power of attorney and a declaration. Your Committee believed that clarification was needed in the event a person executed both a declaration and a durable power of attorney. Your Committee amended the bill to provide that the most recently executed document be the current expression of the person's intentions.

5. Your Committee made other technical, non-substantive amendments for style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1689-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1689-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representatives Menor, Tungpalan, Jones and Medeiros did not concur.)

SCRep. 286-86 Judiciary on H.B. No. 1727-86

The purpose of this bill is to extend the definition of "public street, road or highway" as used in section 291-3.3, HRS.

The present law prohibits a person from carrying in a motor vehicle on any public street, road or highway, open containers containing intoxicating liquor.

Your Committee received testimony in support of the bill from the department of health, department of transportation, Honolulu police department, Tantalus community association, neighborhood board #10, David McFaul, Rick Ralston, and Tamara Sheppard.

Your Committee believes that through extending the prohibition against open containers of intoxicating liquor to scenic lookouts and the portions of public streets, roads or highways that are not part of the traffic flow, the amount of litter will be reduced.

Your Committee amended the bill by creating a separate section for definitions under chapter 291, and included definitions for "public street, road or highway", "intoxicating liquor", and "scenic lookout".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1727-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1727-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 287-86 Agriculture on H.B. No. 1972-86

The purpose of this bill is to provide that every animal entering the state, domestic or otherwise, be presented to the Department of Agriculture for inspection and the issuance of a permit.

Your Committee finds that the broader coverage provided by this bill (i.e., all animals rather than just domestic animals) is in the best interest of the health and safety of the State.

At the request of the Department of Agriculture, your Committee has amended this bill by inserting at the end of Section 142-4 the sentence, "Every carrier, owner, or handler bringing animals into the State shall be required to present these animals to the Department of Agriculture for inspection."

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1972-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1972-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 288-86 Agriculture on H.B. No. 1986-86

The purpose of this bill is to remove the penalty specific to Section 142-93 (Harboring Mongoose; Penalty), and make violations of this section subject to Section 142-12 (Penalties).

Your Committee finds that the detrimental effects of the mongoose far exceed the beneficial ones. Mongoose are a menace to ground-nesting birds and poultry producers, and because of their ability to move about easily far and wide, also pose a potentially seriously threat in the spread of diseases. Your Committee believes that the harboring of mongoose without a specific permit granted by the department should be prohibited and that the destruction of mongoose should be allowed.

Your Committee has made the following amendments to this bill:

- (1) Added a new Section 1 to the bill establishing a new section within Chapter 142, H.R.S., entitled, "Mongoose; killing allowed."
- (2) Added a new Section 2 to the bill amending Section 142-92, H.R.S., by including the island of Lanai as an area where mongoose may not be kept or bred even with a special permit.
- (3) Technical, non-substantive changes for the purposes of style and format.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1986-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1986-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 289-86 Agriculture on H.B. No. 1978-86 (Majority)

The purpose of this bill is to authorize the Department of Agriculture to quarantine animals "suspected" of being affected with or having been exposed to any contagious, infectious, or communicable disease.

Your Committee finds that it is essential to quarantine all animals suspected of being diseased until laboratory investigations can confirm the tentative and suspected diagnosis.

Your Committee also finds, however, that the current language of Section 142-6 allows the department to destroy quarantined animals when in the opinion of the department such action is necessary to prevent the spread of disease. Your Committee is of the opinion that while animals "suspected" of being affected with or exposed to a disease warrant quarantine, destruction of the animal based only on suspect rather than positive proof is unwarranted. Your Committee therefore has amended this bill to provide for the destruction of animals only upon positive proof that the animal is affected with, or has been exposed to a disease.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1978-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1978-86, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 290-86 Agriculture and Judiciary on H.B. No. 1971-86 (Majority)

The purpose of this bill is to authorize the State Department of Agriculture inspectors to board any vessel, vehicle, or aircraft and enter any premises to enforce the provisions of this section.

Your Committees find that this change clarifies the rights of entry for conducting inspections.

Your Committees recommended that proper higher authorities within the Department be notified in the event that such boarding or entries are determined to be necessary.

Your Committees have amended Page 2, line 1 to read... not more than \$1,000... rather than not less than \$1,000.

Your Committees on Agriculture and Judiciary are in accord with the intent and purpose of H.B. No. 1971-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1971-86, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 291-86 Health on H.B. No. 2003-86

The purpose of this bill is to clarify the definition of the word "poison" and to properly place the prescription drug requirements under the food and drug chapter of Hawaii Revised Statutes.

Presently, prescription drug requirements are set forth in chapter 330 of Hawaii Revised Statutes which deals with the sale of poisons. This bill would transfer out of chapter 330 into chapter 328 those sections which deal only with prescription drugs. The effect of this would be to clarify the difference between drugs which are poisons and drugs which are household poisons only.

The result of the proposed changes to existing law is to allow for better enforcement of the provisions of the two chapters. The food products section of the sanitation branch would police the household poisons provisions, and the office of narcotics enforcement would police the prescription drugs provisions.

Your Committee agrees with the recommended changes but amended the bill by adding the phrase "for a period of not less than five years" after the word "preserved" on line 2 page 2. The intent of this amendment is to conform the five year requirement to that which now exists which mandates every pharmacy to maintain records of prescriptions for five years.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2003-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2003-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 292-86 Health on H.B. No. 1995-86

The purpose of this bill is to shorten the time in which the State establishes in the formulary of equivalent drug products those equivalent drug products that the federal Food and Drug Administration (FDA) has approved.

Under existing statutes, the Drug Product Selection Board develops the Hawaii drug formulary, using federal guidelines as a base, and following the requirements of Chapter 91, the Hawaii Administrative Procedure Act. This is a time-consuming process, and the needs of medical and public concerns are not being met on a timely basis.

To expedite the establishing in the formulary of equivalent drug products those drug products that FDA has previously approved, this bill proposes to (1) eliminate the requirement that public hearings be held; (2) require any person who requests an inclusion, addition, or deletion of a generic name or brand name to the formulary to shoulder the burden of proof; and (3) allow the issuance of supplements in addition to the annual publication of a new formulary.

Your Committee agrees with the Department of Health that these changes will result in a more responsive drug product selection process without compromising the safety of the public. Your Committee, however, has amended the bill by adding the word "change" on line 8 of page 2 following the word "such". The reason for the addition is that occasionally changes in names are requested and your Committee agrees such changes should be explained.

Your Committee on Health is accord with the intent and purpose of H.B. No. 1995-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1995-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 293-86

Water, Land Use, Development and Hawaiian Affairs and
Planning, Energy and Environmental Protection on H.B. No.
2281-86

The purpose of this bill is to amend Section 343-5, Hawaii Revised Statutes, by requiring an environmental assessment for reclassification of conservation district lands classified as such by the State Land Use Commission and for any action which proposes introduction of any species of plant, animal, insect, or micro-organism which may be able to survive and multiply in the wild to an island or coastal waters where that species is not found in the wild.

Your Committees received testimony from many governmental agencies, private organizations, and individuals. According to the many testimonies, the entry of new species of organisms into Hawaii must be controlled; however, existing statutes, regulations, and procedures provide for appropriate and sufficient mechanisms through which technical and scientific review assures proper environmental assessment. Your Committees further encourage all appropriate agencies with the responsibility of environmental assessment to implement these statutes, regulations, and procedures as effectively as possible.

Moreover, according to testimony by the Department of Land and Natural Resources, the review of land use proposals within the conservation district is the responsibility of the Board of Land and Natural Resources. In order to avoid confusion and misunderstanding, the Department recommended that the amendment in subparagraph (2), on line 13, page 1, of the bill should be listed separately under Section 343-5.

Your Committees have therefore amended this bill in the following manner:

(1) To retain the original language of the statute in Section 343-5(a)(2), by deleting the phrase "or reclassification of";

(2) To delete subparagraph (7) in its entirety, because existing statutes, regulations, and procedures already provide for the purpose of this subparagraph; and

(3) To create a new subparagraph (7) with the purpose of reclassification of any land classified as conservation district by the State Land Use Commission:

"(7) Propose any reclassification of any land classified as conservation district by the State Land Use Commission under chapter 205".

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection are in accord with the intent and purpose of H.B. No. 2281-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2281-86, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 294-86

Judiciary on H.B. No. 1688-86 (Majority)

The purpose of this bill is to provide a means by which a person may express their decision relating to their own medical treatment.

Last session, the House of Representatives passed House Resolution No. 118, "Requesting Review of Living Will and Natural Death Legislation". During the interim, your Judiciary Committee held hearings on Oahu, Hawaii, Kauai, and Maui to solicit input from concerned organizations and individuals.

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

This bill provides that a person by executing a declaration will be able to express their wishes in the event the person is terminally ill and is unable to convey those wishes. The bill also absolves the doctor or health care provider of liability if they act in accordance with the instructions of the patient.

Your Committee heard testimony from many organizations and individuals who supported the intent and purpose of the bill but offered certain amendments to

address concerns with certain provisions in the bill. The Committee also heard from groups and individuals who opposed this type of legislation.

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.

Your Committee intends that physicians who act in accordance with the provisions of this bill should not be subject to liability. Your Committee believes a physician should not be held accountable if a patient requests that "life-sustaining procedures" be withheld or withdrawn.

Your Committee desires to make it explicitly clear 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 much deliberation and discussion of this matter, your Committee has amended this bill as follows:

1. Addition of definition of "health care provider".
2. Clarification of the definition of "physician" to include physicians that are licensed under Chapter 453, HRS.
3. Amendment of the qualifications for witnesses by deleting requirements that witnesses cannot be entitled to any portion of the declarant's estate, that witnesses cannot be directly financially responsible for declarant's medical care, and that witnesses cannot have a claim against declarant's estate. Your Committee did not believe these requirements were necessary in order to witness a declaration.
4. Deletion of reference to patient advocate or ombudsman. Your Committee did not believe that a patient advocate or ombudsman witness was necessary to validate a declaration made by a person in an intermediate care or skilled nursing facility.
5. Inclusion of a section relating to the effect of a declaration of pregnant women. After listening to testimony, your Committee decided that the declaration of a woman should not be given effect during her pregnancy. Your Committee believed that the attending physician should be able to act in accordance with current medical practices in determining whether to provide, withhold, or withdraw life-sustaining procedure.
6. Amendment of the section relating to penalties. Persons who violate Section -17(b), HRS will be guilty of a class C felony rather than a misdemeanor and a person who violates Section -17(c), HRS will be guilty of a misdemeanor. Section -17(d), HRS was deleted. Your Committee found that the penalty under Section -17 was not severe enough because threat of force was involved and the penalty under Section -17(c) was too severe because no force was involved. Your Committee also deleted Section -16(d) because there is a provision for murder in the penal code.
7. Deletion of Section -21. Your Committee believed the availability of declaration forms should not be restricted.
8. Amendment of Section -22 to reflect current medical practices. Your Committee decided that physicians should be able to continue to act in accordance with current practices in the event a patient does not have a declaration. Your Committee did not want to infringe on the doctor-patient relationship. Your Committee also felt that medical practices may change.
9. Addition of a section relating to effect of a person having one or more declarations and durable powers of attorney, or both. Your Committee believed that clarification was needed in the event a person has executed more than one document. After discussing the matter, your Committee amended the bill to provide that the most recently executed document is to be considered the current expression of the person's intentions.

10. Your Committee made certain other technical, non-substantive amendments for style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1688-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1688-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representatives Andrews, Menor, Tungpalan and Jones did not concur.)

SCRep. 295-86 Agriculture on H.B. No. 1989-86

The purpose of this bill is to repeal the section of the law pertaining to glanders and farcy.

Your Committee finds that glanders and farcy are lymphatic diseases for horses and cattle and have been eradicated from North America and Hawaii. Should these diseases reoccur in the United States, the United States Department of Agriculture would have jurisdiction for the investigation and eradication, therefore this section of the law is unnecessary.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1989-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 296-86 Agriculture on H.B. No. 1981-86

The purpose of this bill is to include under forfeiture, animals under provisional quarantine.

Your Committee finds that provisional quarantine means temporary or conditional isolation and the law is clarified to specify animals under provisional quarantine.

Your Committee also finds that provisional quarantine is an important tool in the prevention and control of animal disease by permitting adequate time for incubating, and allowing asymptomatic disease to become evident.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1981-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 297-86 Agriculture on H.B. No. 1980-86

The purpose of this bill is to amend the law to prohibit the use for breeding purposes of any animal in quarantine and to delete the penalty clause.

Your Committee finds that the current law specifies domestic animals and not exotic animals and needed to be corrected. It further finds that the specific penalty of this section is unnecessary since it is provided in Section 142-12.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1980-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 298-86 Agriculture on H.B. No. 1979-86

The purpose of this bill is to amend the law to include air transportation and to clarify the language of the law.

Your Committee finds that the law needs to be amended to include air transportation and to clarify the language.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1979-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 299-86 Agriculture on H.B. No. 1977-86

The purpose of this bill is to amend the law to include all modes of transportation, including aircraft and to include all animals rather than only domestic animals. It also will prohibit the importation and movement of animals suspected of being infected with a contagious, infectious, or communicable disease.

Your Committee finds that a majority of animals entering Hawaii are shipped by air, and may not manifest any signs of illness for several days after entry into the State. During the period of incubation, the animal can potentially spread the disease if its movement is not prohibited after inspection.

Your Committee also finds that the amendment to include all animals is necessary since non-domestic animals are capable of transmitting diseases which can affect domestic animals and some, even humans.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1977-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 300-86 Agriculture on H.B. No. 1976-86

The purpose of this bill is to require health certificates for all imported animals to ensure that they are properly identified and apparently free of diseases and parasites.

Your Committee finds that this is necessary to assure that only healthy animals are shipped into Hawaii, and will also provide additional means to trace back animals in a disease outbreak and in epidemiological investigations.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1976-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 301-86 Agriculture on H.B. No. 1988-86

The purpose of this bill is to update the name of the federal agency that the State Department of Agriculture cooperates with in the enforcement of meat inspection regulations.

Your Committee finds that the Federal Bureau of Animal Industry is an outdated name and the current federal agency is the United States Department of Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1988-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 302-86 Agriculture on H.B. No. 1987-86

The purpose of this bill is to update the name of the federal agency that the State Department of Agriculture cooperates with in its efforts to eradicate or

control transmissible diseases in Hawaii.

Your Committee finds that the Federal Bureau of Animal Industry is an outdated name and the current federal agency is the United States Department of Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1987-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 303-86 Agriculture on H.B. No. 1984-86

The purpose of this bill is to amend the law by repealing the penalty clause and clarifying the language relating to animals ferae naturae.

Your Committee finds that the penalty for this section is unnecessary since it is covered under Section 142-12, HRS. It further finds that the amendment is to protect livestock which may have become feral and is found on State-controlled lands.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1984-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 304-86 Consumer Protection and Commerce on H.B. No. 2053-86

The purpose of this bill is to amend Chapter 451A, Hawaii Revised Statutes, relating to Hearing Aid Dealers and Fitters, to add a new section relating to cumulative remedies and penalties; to amend Section 451A-2 to delete the provision for the issuance of a license without examination for a period of six months; to amend Section 451A-3 to provide for the election of the vice-chairman, rather than the secretary-treasurer; and to amend Section 451A-13 to include the sanction of a fine and to add two additional grounds for disciplinary action.

Your Committee received favorable testimony from the Board of Hearing Aid Dealers and Fitters.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2053-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 305-86 Consumer Protection and Commerce on H.B. No. 1904-86

The purpose of this bill is to amend Section 441-19, Hawaii Revised Statutes, by adding provisions to empower the Director of the Department of Commerce and Consumer Affairs to extend the deadline or defer the filing of any periodic report required under this section. Also, this bill would provide by rule for alternatives to any bonding or insurance requirement imposed by this section when such bond or insurance cannot be reasonably secured.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs (Department) and Hawaii Allied Memorial Council (Council). The Council testified that Chapter 441, Hawaii Revised Statutes, requires the filing of audited financial statements and actuarial reports for licensees engaged in pre-need trust sales or cemetery sales. Presently, there are a few licensees who maintain perpetual care funds and have sold substantially all of its cemetery property. Other licensees, who have minimal pre-need sales programs, find the annual filing of these reports not only burdensome, but unnecessary and costly.

The Council further testified that Chapter 441, Hawaii Revised Statutes, presently requires a licensee to post a bond by a surety company authorized to do business in the State and does not provide alternative means of providing securi-

ty. Several industry members have encountered difficulty in securing a bond and would prefer to submit alternative forms of security which would be acceptable to the Director.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1904-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 306-86 Consumer Protection and Commerce on H.B. No. 2027-86

The purpose of this bill is to amend Section 269-7.5, Hawaii Revised Statutes, to provide language which would authorize the Public Utilities Commission to determine the reasonableness of the rates, charges and tariff rules and regulations to be imposed by a newly authorized public utility.

Your Committee received favorable testimony from the Division of Consumer Advocacy (Division) of the Department of Commerce and Consumer Affairs. The Division testified that due to an apparent loophole in the law, the initial rates proposed by a "soon-to-be" public utility are not required to be justified as reasonable. Thus, there is a situation wherein a company, in becoming a certificated utility, is at liberty to charge rates substantially in excess of what later may be determined to be just and reasonable rates. This has usually occurred when large developers turn over their development's rights-of-way to counties, and the water mains and wastewater lines which are situated in public rights-of-way become public utility facilities. Further, there have been situations wherein consumers of such newly authorized utility water and wastewater services have been charged very high initial rates which were later found by the Commission to be excessive. The inability of the Commission, for legal reasons, to investigate the reasonableness of the proposed initial rates has led to adverse consumer impacts and considerable consumer confusion. If this proposal were to be enacted, such adverse impacts would be eliminated, and there would be far less consumer confusion and dissatisfaction.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2027-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 307-86 Consumer Protection and Commerce on H.B. No. 1859-86

The purpose of this bill is to clarify the term "no-fault benefits", as used in Chapter 294, Hawaii Revised Statutes, with "personal injury protection benefits", as commonly used in a no-fault insurance policy. Both terms are synonymous and used interchangeably in an insurance policy.

Your Committee received favorable testimony from the Insurance Commissioner of the Department of Commerce and Consumer Affairs and the Hawaii Insurers Council.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1859-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 308-86 Consumer Protection and Commerce on H.B. No. 2031-86

The purpose of this bill is to simplify presently lengthy sections by dividing Section 440-9, Hawaii Revised Statutes, into subsections (a) and (b) and adding a provision that no boxing contest shall take place unless the Hawaii State Boxing Commission has approved the bout; dividing Section 440-10 into subsections (a), (b), and (c); dividing Section 440-11 into subsections (a) and (b) and adding a new subsection (c) to provide new requirements for the maintenance of the promoter's license; establishing examination requirements for the license of a referee, judge, manager or second license; providing that the cost of investigation into a

licensed promoter's books or records shall be borne by the licensee; amending requirements for amateur contestants; and making grammatical and "housekeeping" changes.

Your Committee heard favorable testimony from the Hawaii State Boxing Commission (Commission). The Commission testified that the provision in Section 440-9(b), Hawaii Revised Statutes, which stipulates that the Commission shall approve all proposed bouts, specifically gives the Commission the authority to perform a function which has always been implied in the statutes. The increase of the minimum glove weight has been recommended by physicians for the safety and protection of boxers. The Commission also testified that Section 440-11(c), Hawaii Revised Statutes, have been included to expedite Commission action against a promoter who fails to maintain the mandatory medical insurance or bonding coverage. Further, a provision calling for written examinations for referees, judges, managers, and seconds has been specifically included in Section 440-12, Hawaii Revised Statutes, to give the Commission the authority to impose this requirement in its efforts to determine whether these applicants are qualified for licensure. The Commission has been administering written examinations to these applicants for a number of years under an "implied" authority to do so. An exemption for out-of-state managers and second applicants is included as a practical matter and is similar to licensing someone by reciprocity.

The Commission also testified that Section 440-16, Hawaii Revised Statutes, has been amended to provide that the cost of reviewing the books and records of a promoter, who either fails to file or files unsatisfactory reports to the Commission, is to be charged to the offending promoter rather than be borne by the State or the Commission. This provision will serve as a deterrent to promoters who fail to abide by the Commission's reporting requirements. Also, Section 440-31, Hawaii Revised Statutes, relating to amateur contestants and their status has been clarified and brought up-to-date to correspond with current requirements and standards related to amateur contestants.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2031-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 309-86 Consumer Protection and Commerce on H.B. No. 1716-86

The purpose of this bill is to repeal Sections 445-41 to 445-43, Hawaii Revised Statutes, which would in turn repeal the county business license requirement for ball and marble machines.

Your Committee received favorable testimony from the Director of Finance, City and County of Honolulu and the Hawaii Business League.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1716 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 310-86 Judiciary on H.B. No. 1949-86 (Majority)

The purpose of this bill is to propose a constitutional amendment that will require that an elected official to resign from office if said elected official changes political party during the term of office.

Presently, the law does not require that an elected official resign from office in the event said official changes party affiliation.

Your Committee heard testimony in support of the bill from the chairman of the State Democratic Party. He testified that this law makes it clear that if an elected official changes political party during their term of office, the elected official must resign, however, the elected official may run in the special election to fill the vacancy.

Your Committee finds that this bill will set forth specific conditions in the event

an elected official changes party during their term of office.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1949-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

(Representatives Jones, Liu and Medeiros did not concur.)

SCRep. 311-86 Judiciary on H.B. No. 1729-86

The purpose of this bill is to amend section 651-1, Hawaii Revised Statutes, to clarify that a writ of attachment of real estate may not be issued by a district court judge, and to remove the present fifty dollar ceiling on attorney's fees on bonds required in attachment cases under section 651-1, Hawaii Revised Statutes.

Presently under section 651-1, Hawaii Revised Statutes, a writ may not be issued by a district court judge. This bill would specify that a writ of attachment of real estate cannot be issued by a district court judge.

This bill would also amend section 651-6, Hawaii Revised Statutes, which at the present time imposes a fifty dollar ceiling on attorney's fees in attachment cases requiring a bond. The bill would remove the fifty dollar ceiling and leave it up to the court to determine reasonable attorney's fees.

A representative from the judiciary submitted testimony in support of this measure. Their testimony indicated that if enacted, the district court of the first circuit, civil division would comply with the amendments proposed in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1729-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 312-86 Judiciary on H.B. No. 1992-86

The purpose of this bill is to amend chapter 523A, HRS: (1) by providing for a presumption of abandonment after the date specified for final distribution; (2) by increasing the amount that may be reported in the aggregate by a holder of unclaimed property from twenty-five dollars to fifty dollars; (3) by increasing from one hundred twenty days to six months the amount of time that a holder of unclaimed property has to send written notice to apparent owners before filing a report; and (4) by limiting the fees charged by locators of unclaimed property to no more than twenty percent of the value of the property.

At the present time section 523A-11, HRS provides that property distributable in the course of a dissolution of a business association must be held for more than one year after the date set for final distribution before it is presumed abandoned. Also, under current law, section 523A-17(b), HRS, provides that a holder of unclaimed property having a value of less than twenty-five dollars may elect to report such items in the aggregate. Currently, under section 523A-17(e), HRS, a holder must send written notice to owners not more than one hundred twenty days before filing its report. Section 523A-17(b), HRS, currently sets no limit on the fees charged by locators of unclaimed property.

The Department of Budget and Finance submitted testimony in favor of this measure. The testimony indicated that the primary purpose of the Uniform Unclaimed Property Act was to reunite owners with property they may have lost, forgotten, or misplaced. The testimony further indicated that without the limit on fees charged by locators, the fees were usually excessive and exorbitant.

Your Committee finds from the testimony presented that the present law could better serve the interests of the owners and holders of unclaimed property if the proposed amendments are adopted.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1992-86 and recommends that it pass Second Reading and be placed on the

calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 313-86 Public Employment and Government Operations on S.B. No.
431

The purpose of this bill is to allow certain beneficiaries of Employees' Retirement System members who selected Option Two or Option Three retirement allowance plans to receive the stated percentage of the total benefit, including a post-retirement allowance, if applicable.

Your Committee received testimony from the Coalition of Hawaii State-Counties Retirees Association and the Hawaii State Teachers Association in support of this measure indicating that the bill corrects an existing inequity in Chapter 88, HRS by providing beneficiaries of Options Two or Three with post-retirement allowances and bonuses, in addition to the stated percentage of benefits being received when the retiree died. The provision of post-retirement allowances to these beneficiaries puts them in parity with other option beneficiaries, and helps minimize the impact of inflation which reduces purchasing power.

The Employees' Retirement System (ERS) also presented testimony which estimated that these revisions would result in additional State costs of \$250,000 per year, and additional county costs of \$130,000 per year. The ERS also suggested that either the bill or the committee report reflect that this amendment is applicable to the beneficiary of those members selecting Option Two or Three who die after the effective date of this Act.

Your Committee has therefore amended the bill by adding a new section 2 which would in short make the provision prospective, and not affect entitlements retroactively. Other technical, nonsubstantive amendments were made to renumber subsequent sections for purposes of consistency.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 431, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 431, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 314-86 Public Employment and Government Operations on S.B. No.
52

The purpose of this bill is to expand the investment options available to the Board of Trustees, Employees Retirement System (ERS) under Chapter 88, HRS.

Specifically, the bill: (1) authorizes the Board to invest in real property, including fee ownership in land or improvements, estates, leaseholds, easements, options and contracts, and mortgages secured by real property; and (2) expands the permitted investments in securities to include securities defined in Section 485-1, HRS, including interest rate and stock index futures contracts and options on such contracts.

Your Committee heard testimony from the ERS indicating that the Board of Trustees is charged with the fiduciary responsibility of diversifying its investments. However, restrictive interpretations of Chapter 88, HRS, by the Attorney General has limited the types of investments available to the ERS, thereby limiting investment opportunities. If S.B. No. 52, S.D. 2 had been in effect, in 1984, it is estimated that an additional return of 9/10 of 1% on the fixed-income portfolio, or \$7 million based upon a corporate and government bond portfolio of approximately \$800 million, would have been realized.

While in agreement with the intent of the bill to enable the ERS to diversify its investments, your committee believes that the "prudent person investment rule" applies to all investments made by the ERS. In the absence of provisions in the statutes providing otherwise, it is the duty of the trustees to make such investments and only such investments as a prudent person would make of his own property, having primarily in view the preservation of the ERS' assets and the

amount and regularity of income to be derived. Specifically, your Committee has made the following amendments:

1. Added the prudent person standard to section 88-119(9), HRS.
2. Required the Board of Trustees to consider the tax-exempt status of the system in making real estate investment decisions, since depreciation and expense deductions arising from real estate investments are valueless to the system.
3. Reduced the ceiling on investments in real estate from 10% to 5% of the system's total assets.
4. Prohibited the system from investing in general partnerships, associations and joint ventures, which would expose the system to liabilities arising from actions of other general partners and joint venturers.
5. Eliminated the likelihood of speculation in futures and options investments by adding specific criteria, which must be adhered to by the system in making such investments.
6. Reduced the ceiling on investments in securities, including futures and options, from 10% to 5% of the system's total assets.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 52, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 52, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 315-86 Public Employment and Government Operations on S.B. No.
774

The purpose of this bill is to provide that public employees, hired on a shortage category basis, shall have their salaries adjusted using the current rate of pay which includes the temporary shortage differential for purposes of overtime, standby, temporary hazard pay or negotiated pay increases.

Testimony by the Hawaii Government Employees Association (HGEA) indicated that section 77-9(c), HRS discriminates against employees hired under a shortage category. When an applicant is appointed to a position under "recruitment above the minimum" situations as provided for in section 77-9(a), HRS, the employee's base pay rate is placed at the step that he or she was recruited. For example, if an employee was hired at the step G rate, all pay adjustments are computed at that rate.

In contrast to the "recruitment above the minimum" situation, employees hired under the shortage category provision do not receive an adjustment in their base pay rate (step B) even though they may have been recruited at step G of the salary range. Adjustments for overtime, standby, temporary hazard pay, or negotiated pay increases are therefore made to the employee's step B rate rather than the rate at which the employee was recruited. The conflict between section 77-9(a) and 77-9(c), HRS, illustrates an inequitable application of the compensation law that warrants statutory change.

The Department of Personnel Services (DPS) testified in opposition to S.B. No. 774, S.D. 2. Although the bill has merit, DPS believes the matter would be more properly resolved through collective bargaining negotiations.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 774, S.D. 2 and recommends that it pass Second Reading and be referred to the Committee on Finance.

SCRep. 316-86 Public Employment and Government Operations and Health
on S.B. No. 427

The purpose of this bill is to ensure sufficiently flexible employment opportunities to meet the varying needs of Hawaii's people through a two-year voluntary job-sharing pilot project to be conducted by the Department of Health (DOH)

during the fiscal years 1986-87 and 1987-88. Nurses are the target group for whom the project is designed. Other key features of the pilot project include: 1) a maximum of 100 full time permanent positions may be involved in job-sharing, with a majority of those positions allocated to neighbor island hospitals; 2) every work site shall be given an opportunity to participate; and 3) the Legislative Auditor is required to monitor and evaluate the pilot project, and submit a report on its findings and recommendations to the Legislature prior to the 1988 Regular Session.

Your Committees have heard testimony from the Department of Personnel Services (DPS). Because the proposed pilot project within the DOH is patterned after a similar one established by Act 256, SLH 1984 for the public libraries, DPS did not object to this bill.

The Hawaii Government Employees Association (HGEA), as the exclusive bargaining agent for registered nurses, clerical and other professional employees within the DOH, also submitted testimony indicating that job-sharing is an innovative means of providing people an opportunity to be employed on the basis of financial or other needs, such as raising a family, without working on a full-time basis, or resigning from full-time employment. Moreover, a job-sharing pilot project in the DOH would develop a more stimulating work environment and afford employees more time to pursue additional training and education, further benefiting the Department.

The DOH submitted testimony recommending that S.B. No. 427, S.D. 1 not be enacted into law. The Department had two primary objections to the proposed legislation. First, current law provides adequate authority to the Director of DPS and the directors of other State departments to implement job-sharing programs. Their second objection was that the bill places the job-sharing pilot project above primary operational concerns, which might have a detrimental effect on the Department's ability to provide quality health care.

The DOH also contended that experience and currency are a major concern with respect to nursing services. Given a choice, the department will choose a full-time over a part-time employee because of their total commitment to the job, ability to remain current in education and experience, and the better continuity of service to patients.

While the concerns expressed by the DOH must be given consideration, your Committees find the job-sharing pilot project offers important potential benefits to the Department through additional opportunities for employees in-service training and education, recruitment of new employees as well as an improved work environment.

Your Committees have amended this bill by changing the dates the project will be in effect from fiscal years 1985-86 and 1986-87 to 1986-87 and 1987-88. Similarly, the final report by the Legislative Auditor will be due in 1989 rather than 1988.

Your Committees on Public Employment and Government Operations and Health are in accord with the intent and purpose of S.B. No. 427, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 427, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 317-86

Consumer Protection and Commerce on H.B. No. 2274-86

The purpose of this bill is to establish a statewide insurance development program to assure fair access to casualty insurance.

H.B. No. 2274-86 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by

which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2274-86, as amended herein, and recommends that it be recommitted to the Committee on Consumer Protection and Commerce, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2274-86, H.D. 1.

Signed by all members of the Committee except Representative Jones.

SCRep. 318-86 Judiciary on H.R. No. 9

The purpose of this resolution is to support the development of a court-annexed or court-ordered arbitration program in the State of Hawaii which would move certain civil cases to earlier resolutions.

Your Committee heard testimony from the National Federation of Independent Business indicating that arbitration will save significant time and money. A representative from the Hawaii Academy of Plaintiffs' Attorneys testified that arbitration is a positive step toward reducing the cost to insurers and the general public. Testimony from the Judiciary indicated that litigants will find the proposed procedures to be fair and satisfying. The Judiciary also indicated that the public's faith in the efficiency of the courts will be restored. The department of the prosecuting attorney submitted testimony supporting the intent of this measure. Their testimony also indicated that the program would result in more out-of-court settlements, thus easing the burden of the courts.

Your Committee finds from the testimony presented that this program will help to overcome lengthy delays in the disposition of civil cases and to reduce the congestion in our court system. Arbitration would compliment and improve the efficiency of our judicial system.

Your Committee on Judiciary concurs with the intent and purpose of H.R. No. 9 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 319-86 Judiciary on H.C.R. No. 8

The purpose of this concurrent resolution is to support the development of a court-annexed or court-ordered arbitration program in the State of Hawaii which would move certain civil cases to earlier resolutions.

Your Committee heard testimony from the National Federation of Independent Business indicating that arbitration will save significant time and money. A representative from the Hawaii Academy of Plaintiffs' Attorneys testified that arbitration is a positive step toward reducing the cost to insurers and the general public. Testimony from the Judiciary indicated that litigants will find the proposed procedures to be fair and satisfying. The Judiciary also indicated that the public's faith in the efficiency of the courts will be restored. The department of the prosecuting attorney submitted testimony supporting the intent of this measure. Their testimony also indicated that the program would result in more out-of-court settlements, thus easing the burden of the courts.

Your Committee finds from the testimony presented that this program will help to overcome lengthy delays in the disposition of civil cases and to reduce the congestion in our court system. Arbitration would compliment and improve the efficiency of our judicial system.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 8 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 320-86 Education and Transportation on S.B. No. 909

The purpose of this bill is to allow any bus with a valid safety inspection to be

able to satisfy any age limit in securing a school bus contract.

Your Committees heard testimony against this bill from the Department of Accounting and General Services. The 10-year age limitation was initially incorporated into the department's specifications because of legislative concerns regarding the appearance of some of the older buses. A rusted and faded vehicle may be considered unsafe to some people regardless of its mechanical condition.

The Department of Accounting and General Services further stated that there are significant safety concerns because of subsequent Federal Motor Vehicle Standards issued by the Secretary of Transportation in 1977.

Your Committees heard testimony in favor of this bill from the Hawaii School Bus Association. The association stated that safety of a vehicle is not measured by age. Safety should be measured by an efficient and effective maintenance program, driver training and awareness, and regular safety inspections. The age policy is counter-productive because it does not provide incentive to prolong the bus life. Federal standards and regulations do not limit the use of school buses by age.

Your Committees also heard testimony in favor of this bill from the Laupahoehoe Transportation Co., Inc. (Laupahoehoe). Their testimony stated that State Law requires every bus, no matter what its age, pass a safety inspection every six months. Also, Laupahoehoe stated that the State Department of Transportation's position in this matter is that age of the buses does not determine safety, but rather, the operations and maintenance does. An older vehicle, properly maintained on a regular basis, could pass the department's safety inspection and transport students safely.

Further, your Committees heard testimony that 10-year old buses, which previously transported students to and from school, are now being used by high schools for school-related activities. Allowing such use clearly contradicts the Department of Accounting and General Services' contention that such older vehicles are not safe to transport students.

As a result of its findings, your Committees believe that pupil safety is not furthered by the department's incorporation of an age limit specification in school bus contracts. Your Committees believe that so long as these buses are able to meet the safety standards and requirements of the State Department of Transportation and the Federal Motor Vehicle Standards of 1977, the age of a vehicle should not be used as a basis to exclude their consideration.

In this regard, your Committees have amended this bill by requiring that a contract between the State and the contractor shall not include an age limitation on school bus vehicles manufactured in accordance with Federal Motor Vehicle Safety Standards issued in 1977 by the Secretary of Transportation. Section 296-46.1 HRS, is further amended to require that the contract shall include provisions requiring periodic refurbishment of school buses over ten years old.

Your Committees on Education and Transportation are in accord with the intent and purpose of S.B. No. 909, S.D. 1, as amended herein, and recommend that it pass Second Reading, in the form attached hereto as S.B. No. 909, S.D. 1, H.D. 1, and be placed on the calendar for the Third Reading.

Signed by all members of the Committees except Representatives Nakasato and Pfeil.

SCRep. 321-86 Transportation and Public Employment and Government
Operations on H.B. No. 2012-86 (Majority)

The purpose of this bill is to clarify the responsibilities, of the respective counties, to maintain and repair all county highways as defined in Section 264-1, Hawaii Revised Statutes.

Your Committees find under present law, there is some question as to who is responsible for the maintenance of some highways due to the fact the title is still in the state. This bill would clarify this issue by specifically addressing the title problem.

Your Committees received testimony from the Department of Transportation and

the Department of Land and Natural Resources favoring the intent of the legislation to clarify the counties' responsibilities to maintain certain public highways.

Your Committees on Transportation and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2012-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Nakasato.

(Representative Anderson did not concur.)

SCRep. 322-86 Transportation and Public Employment and Government
Operations on H.B. No. 2128-86

The purpose of this bill is to provide an exemption from the motor vehicle certificate of inspection requirements and the motor vehicle registration requirements for aircraft servicing vehicles used exclusively for airport purposes.

Your Committees find under present law these aircraft servicing vehicles are subject to the usual motor vehicle inspection and registration requirements. The bill would create an exemption for those vehicles due to the specific nature of their work as well as their restricted areas of operation.

Your Committees received testimony from the Department of Transportation favoring the passage of the bill. The Department of Transportation also informed your Committees these vehicles are covered by a substantial liability insurance policy which would cover these vehicles in the event any of these vehicles were involved in an accident on public roads.

Your Committees on Transportation and Public Employment and Government Operations are in accord with the intent and purpose of H.B. No. 2128-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 323-86 Transportation and Judiciary on H.B. No. 2060-86

The purposes of the bill are: 1) to provide taxi drivers with an exemption from the seat belt requirements; and 2) to provide for a medical exemption from the requirements of this section.

Your Committees find that there are no provisions in the present law for exemptions for taxi drivers or persons with certain medical conditions. Your Committees are concerned that the law may be unduly restrictive upon certain classes of people, and the application of the statute to these classes may be unreasonable due to the nature of their work or due to some particular medical condition.

Your Committees received testimony from the Department of Transportation, the Hawaii Insurers Council and the Oahu Taxi Owners Association favoring the basic thrust of this bill, to allow for an exemption for taxi drivers under certain conditions.

Your Committees also heard testimony from the Department of Transportation, the Hawaii Insurers Council, the Honolulu Police Department and from Charles Lobenberg favoring the passage of H.B. 2278-86, dealing with the use of replacement seat belt assemblies which meet federally approved standards, and your Committees have decided to incorporate those provisions of H.B. 2278-86 into H.B. No. 2060-86.

Your Committees have amended Section 1 of the bill amending §291-11.6, Hawaii Revised Statute, to include subsection (a) of §291-11.6 and adding a provision that would allow the use of replacement seat belt assemblies in lieu of the original seat belt assemblies when the original assemblies are not readily available.

Your Committees have also amended the bill to delete the proposed sentence at Section 1, page 1, lines 6 to 9 of the bill and inserted a provision that would

clarify the conditions under which a taxi driver would be exempt from the requirements of the seat belt law.

Your Committees have further amended the bill to delete the sentence in Section 1, page 1, lines 9 to 11 in order to avoid possible constitutional issues with regard to this section.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 2060-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2060-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 324-86 Transportation and Judiciary on H.B. No. 1739-86

The purpose of the bill is to clarify the type of violation that would result for failure to comply with the requirements of the seat belt law.

Your Committees find that the present statute HRS 291-11.6, does not specifically state whether a violation of this section is a moving violation or an equipment violation. A clarification is needed so the public as well as the insurance carriers are informed of the nature of the violation.

Your Committees received testimony from the Department of Transportation, the Judiciary, the Department of the Prosecuting Attorney and the Hawaii Coalition for Safety Belts favoring this bill, to classify violations regarding seat belts as equipment or non-moving violations.

Your Committees have amended the bill by deleting on page 1 "an equipment" on line 4 and "such equipment" on line 5. Your Committees have included a phrase which specifically states that no points are to be assessed for violations of this section. It clarifies that the failure to comply with this section is a non-moving type of violation.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 1739-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1739-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 325-86 Transportation and Consumer Protection and Commerce on
H.B. No. 1830-86

The purpose of this bill is to amend Section 290-12, Hawaii Revised Statutes, to provide that the registered owner as opposed to whoever leaves an abandoned or derelict vehicle shall be guilty of a petty misdemeanor. The registered owner, however, shall not be guilty of the petty misdemeanor if the abandoned or derelict vehicle has been stolen or taken from the registered owner without permission or authorization.

Currently the law states that whoever leaves an abandoned vehicle shall be guilty of a petty misdemeanor. Testimony from the City and County of Honolulu's Finance and Police Departments indicated that a police officer would have to witness an individual abandoning a vehicle before any criminal action can be taken.

Act 52, S.B. No. 377-85, passed in the 1985 Regular Session, addresses the present problem by deleting intentionally and knowingly from whoever leaves an abandoned or derelict vehicle. The present bill will further identify the responsible party of an abandoned or derelict vehicle.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1830-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Nakasato.

SCRep. 326-86 Health on H.B. No. 2104-86

The purpose of this bill is to move the statutory provisions authorizing the metabolic screening of newborn infants from Part IV of Chapter 321 which deals with crippled children into its own Part within the Chapter.

This is a housekeeping measure designed to remedy some inconsistencies which would arise if the provisions are retained in Part IV.

Your Committee is in accord with the intent and purpose of H.B. No. 2104-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 327-86 Transportation on H.B. No. 2596-86

The purpose of this bill is to require mopeds to comply with the same muffler or exhaust system requirements motorcycles are subject to under present law.

Your Committee finds that there is no existing law that deals with the problem of noisy exhaust systems on mopeds. This bill would provide the authorities with a vehicle to enforce violations of this nature.

Your Committee received testimony from the Department of Transportation, the Department of Finance of the City and County of Honolulu, the Honolulu Police Department and the Hawaii Business League favoring passage of this bill, to require mopeds to comply with certain muffler and exhaust system requirements.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2596-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 328-86 Transportation on H.B. No. 420

The purpose of this bill is to require driver's license renewal applicants who are 65 years of age and older to take a written examination of the rules of the road every four years.

Your Committee finds present law requires a driver license renewal applicant who is 65 years of age or older to take a written examination of the rules of the road every two years. The bill would change this requirement to every four years.

Your Committee received testimony from the Department of Finance, County of Maui and the Honolulu Police Department favoring the passage of the bill. The Department of Transportation opposed the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 420 and recommends it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 329-86 Transportation 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.

Your Committee finds the present statute does not clearly define the types of loads which must be covered when a vehicle is traveling on a highway. Litter from trucks carrying loose material which is either uncovered or improperly covered is a statewide problem. This bill would require vehicles which are carrying certain types of materials or loads to be entirely covered with some suitable material.

Your Committee received testimony from the Department of Transportation, the Department of Health, the Honolulu Police Department and the Department of the Prosecuting Attorney favoring this bill, to specify the types of loads which are required to be entirely covered.

Your Committee has amended this bill on page 2, lines 8 to 10, by deleting the phrase "or any other material susceptible of being blown or carried by the wind" and substituting therefor the words "or empty crates, dirt, and sand" to clarify the materials to be covered by the new subsection.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1998-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1998-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 330-86 Higher Education and the Arts on H.B. No. 2173-86

The purpose of this bill is to designate outrigger canoe paddling as the official State team sport of Hawaii.

Several canoe associations and individuals testified in support of this bill.

Your Committee finds that the sport of canoe paddling has significant historical and cultural importance, and wishes to support and encourage the growth of this sport.

Your Committee has made non-substantive amendments.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 2173-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2173-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 331-86 Ocean and Marine Resources on H.B. No. 2016-86

The purpose of this bill is to minimize the possibility of injury to fishermen and damage to their boats when landing tuna and billfish by allowing fishermen to use firearms in subduing these large gamefish.

Currently, it is common practice for fishermen to club, spike, or gaff a fish to quickly subdue or kill it prior to landing it on to the boat. The use of firearms would be useful in these situations; however, under present law, firearms are only permitted in killing sharks. As a result, the Department of Land and Natural Resources testified that the potential exists for injury and even death to fishermen when landing gamefish such as tuna or billfish under the allowable methods.

To clarify that firearms may be used to subdue tuna and billfish after they have been caught and gaffed, your Committee has amended the bill as follows:

(1) Deleted the phrase "other than" in lines 5-6;

(2) Added the phrase "except tuna and billfish that have been caught and gaffed and" between the words "than" and "sharks" in line 6 of the original bill;

(3) Deleted the phrase "or other than tuna and billfish that have been caught and gaffed" in lines 6-7 of the original bill; and

(4) Added a comma before the word "in" found in line 7 of the original bill.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 2016-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2016-86, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 332-86 Health on H.B. No. 2004-86

The purpose of this bill is to eliminate the requirement that the Department of Health conduct epidemiological studies of residents who have been exposed to agent orange and provide them with genetic screening and genetic counseling services.

The Director of Health testified that after two surveys involving Vietnam veterans, non-Vietnam veterans, and other persons, concerning agent orange, were completed, an agreement was reached among members of the genetics research community and representatives of Vietnam veterans and refugees. The consensus was that there are apparently no adequate genetic damage diagnostic tests which are now available that would be useful for genetic screening and counseling.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2004-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 333-86 Planning, Energy and Environmental Protection on H.B. No. 2730-86

The purpose of this bill is to require specific enforcement actions for certain recurring violations to Chapter 342, relating to environmental quality, and to rules promulgated under this chapter.

Under current law, the Director of Health has discretionary powers to enforce provisions of Chapter 342 such as in obtaining voluntary compliance by warning, conference, or other means; serving written notices on alleged violations; prescribing timetables for actions to be taken in preventing, abating, or controlling a violation or discharge; and imposing penalties and instituting civil action under certain circumstances.

Your Committee finds that enforcement actions to be taken in addressing certain environmental pollution incidents should be more predictable and consistent. Accordingly, your Committee finds that this bill, which requires specific enforcement actions for certain violations, would clarify the law for both violators as well as for enforcement personnel.

Both the Department of Health and the University of Hawaii's Environmental Center testified in support of this bill. The Hawaii Sugar Planters' Association opposed the bill on the grounds that this measure would create additional complexity to the enforcement program and would remove all flexibility that the Director of Health may need in dealing with different situations. However, your Committee concurs with the Department of Health in its opinion that, with this language in the statutes, violators must pay serious attention to their compliance efforts during the initial enforcement action and not expect repeated chances without any consequences. Your Committee finds that this measure will provide an incentive to violators to upgrade maintenance and improve pollution abatement technology and therefore ensure a better environment for the State of Hawaii.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2730-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 334-86 Planning, Energy and Environmental Protection on H.B. No. 2168-86

The purpose of this bill is to improve and streamline Hawaii's environmental impact statement system by providing a definition of the term "negative declaration," and by making several minor, non-substantive amendments.

Your Committee finds that Hawaii's environmental impact statement law, as it presently exists, contains several ambiguities that often lead to unclear interpretations of its provisions. This bill provides the Environmental Council with the necessary flexibility in rule-making to provide for a more efficient, clearly

defined environmental impact statement process.

Your Committee has amended this bill by revising the proposed language for Section 343-6(a)(8). Your Committee finds that the term "negative declaration" may prove too narrow and restrictive in definition. Therefore, in its place, the term "environmental assessment", which encompasses the definition of a "negative declaration", has been inserted.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2168-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2168-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 335-86 Planning, Energy and Environmental Protection on H.B. No.
2005-86

The purpose of this bill is to amend Section 342-6(d), Hawaii Revised Statutes, to rectify an inconsistency with Section 402 of the Federal Clean Water Act and Section 165 of the Federal Clean Air Act. This bill allows for the exemption of permit applications under federally delegated programs so that the permit issuance procedures of the Department of Health comply with applicable sections of the previously cited federal Acts.

Your Committee finds that the State Department of Health is delegated the authority to administer the National Pollutant Discharge Elimination System and the Prevention of Significant Deterioration Permit Program pursuant to the Federal Clean Water Act and the Federal Clean Air Act. State programs to be administered by the Department must at all times be consistent with the permit provisions of these federal programs. However, Section 342-6(d), HRS, currently provides that the failure of the Director of Health to act on a complete permit application within one hundred eighty days shall be deemed to be a grant of such application permit. The EPA Region IX has informed the Department that this is inconsistent with both the Federal Clean Air and Clean Water Acts. This bill will rectify this inconsistency by exempting permit applications received under federally delegated programs.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2005-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 336-86 Judiciary on H.B. No. 1959-86

The purpose of this bill is to amend section 571D-1, HRS to make the senior judge of the First Circuit Family Court an ex officio member of the Juvenile Justice Interagency Board.

At the present time the senior judge of the First Circuit Family Court is appointed to the Board.

Your Committee finds from the testimony presented that the first circuit is the largest, has the only full-time Family Court, and is the most involved in legislative and policy matters. Your Committee therefore agrees with the intent of this bill to make the senior judge of the First Circuit Family Court an ex officio member rather than an appointed member of the Board.

Your Committee amended the bill to correct certain typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1959-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1959-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 337-86 Judiciary on H.B. No. 1985-86

The purpose of this bill is to amend section 142-74, Hawaii Revised Statutes, to make violations of this section subject to the penalties imposed under section 142-12, Hawaii Revised Statutes.

Under the present law the owner of the dog pays trial costs together with a fine of ten dollars or imprisonment for thirty days if the fine is not paid.

A representative from the Board of Agriculture submitted testimony in favor of this measure. The testimony indicated that the damage to livestock by free roaming dogs has long been a problem. The testimony further indicated that the adoption of the amendments in this bill would increase dog owner compliance with leash laws.

Your Committee amended the bill to clearly state that the dog owner would only be liable for damages if the dog goes onto private property without the consent of the owner of that property.

Your Committee also made some technical, nonsubstantive amendments for purposes of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1985-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1985-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 338-86 Judiciary on H.B. No. 2007-86

The purpose of this bill is to amend chapters 333 and 333E, HRS, to provide for the confidentiality of records of mentally retarded or developmentally disabled persons.

Presently, there is no law that addresses the handling of records of mentally retarded or developmentally disabled persons.

Your Committee heard testimony in support of the bill from the Department of Health and the Family Court, First Circuit.

Your Committee finds that the bill will provide for confidentiality of records of persons who are mentally retarded or developmentally disabled and that the bill is consistent with the federal Developmental Disabilities Act.

Your Committee amended the bill to allow access to the records for Family Court proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2007-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2007-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 339-86 Consumer Protection and Commerce on H.B. No. 2055-86

The purpose of this bill is to amend Chapter 460J, Hawaii Revised Statutes, to add new sections to provide for separate administrative, civil, and criminal penalties, and to set forth appeal rights for an applicant or licensee. The bill also amends Section 460J-27 to address penalties which may be imposed for unlicensed activities.

Your Committee heard testimony in support of the bill from the Pest Control Board of the Department of Commerce and Consumer Affairs and from the Hawaii Pest Control Association (Association). The Association, however, requested that a cap of \$2,500 be placed for each violation in both the administrative penalties section and the penal sanctions section.

Your Committee, upon further consideration, has amended the amount of the fine in the administrative penalties section to read "not more than \$2,500 for each violation", rather than "not less than \$500 for each violation". Your Committee has also amended the amount of the fine in the penal sanctions section to read "not more than \$2,500", rather than "not less than \$500".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2055-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2055-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 340-86 Consumer Protection and Commerce on H.B. No. 2715-86

The purpose of this bill is to amend specific sections of Chapter 452, Hawaii Revised Statutes, to require special licenses for those who practice the disciplines of massage involving nerve points.

Your Committee heard testimony in favor of the bill from the Board of Massage (Board) of the Department of Commerce and Consumer Affairs and the Windward Shiatsu Therapy Center, Inc. Your Committee also heard testimony against passage of the bill from Reflexology of Hawaii and from a massage therapist.

Your Committee, upon further consideration, has amended the bill by adding a new section to Chapter 452, Hawaii Revised Statutes, relating to grounds for disciplinary actions by the Board of Massage against licensees. Your Committee has also amended the bill by adding an amendment to subsection 452-23(a) to provide that it shall be a misdemeanor for a person to advertise as being able to perform massage in any form without having received training in the massage technique being advertised.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2715-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2715-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 341-86 Consumer Protection and Commerce on H.B. No. 2194-86

The purpose of this bill is to amend Chapter 514A, Hawaii Revised Statutes, to implement the findings of the Real Estate Commission in its report submitted in response to S.R. No. 156, S.D. 1 (1985), "Requesting That Condominium Public Reports Issued by the Real Estate Commission be Written in Plain Language." The Commission, with the assistance of the Hawaii Bar Association, the Hawaii Association of Realtors, and other interested parties, studied methods of simplifying the language and the style of horizontal property regime reports in order that a lay person can understand the statutory disclosure requirements.

Condominium public reports are issued by the Commission and are intended to help those who buy condominium apartments from a developer by providing material and pertinent information about the condominium project. The public reports, for the most part, however, exemplify a well drafted legal document understood principally by attorneys.

As recommended in the report, the Commission has implemented a revised public report format as follows:

1. As of March 1, 1986, the developer will have the option of using the new format or the old format, which will provide an opportunity for further improvement and clarification, if necessary, before it becomes mandatory.
2. On July 1, 1986, all public reports will conform to the new format.

This bill proposes changes to Chapter 514A that would improve and clarify for the consumer the effect of a public report. Presently, all reports, which may include preliminary, final, and supplementary reports, must be given to a prospective purchaser, including the disclosure abstract. Subsections 514A-36(b)

and 514A-41(b) have been revised to provide that the Real Estate Commission has the authority to determine when a supplementary report supersedes previous reports. Your Committee expects this authority to be exercised in a manner that will ensure effective disclosure without generating unnecessary paperwork.

The bill also amends Section 514A-62 to clarify the "receipt and notice of right to cancel" section, which will permit the use of one form for the receipt of the public report, cancellation of the purchase, or the waiver of the right to cancel.

Your Committee heard testimony from the Real Estate Commission and the Hawaii Association of Realtors in support of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2194-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 342-86 Consumer Protection and Commerce on H.B. No. 2113-86

The purpose of this bill is to amend Chapter 448, Hawaii Revised Statutes, by adding new sections to provide the Board of Dental Examiners with the power to deny a license to or revoke the license of a person who falsifies an application and to provide a cumulative penalties section. The bill also amends Section 448-17, Hawaii Revised Statutes, by adding "administrative penalties" to the title, to insert an additional violation which refers to the dental hygienist statute, to remove the restoration of license provision, and to add a "fine" as an administrative penalty. The bill also amends Section 448-21 by adding the word "criminal" to the title and section to clarify the type of penalties covered.

Your Committee heard favorable testimony from the Board of Dental Examiners (Board) of the Department of Commerce and Consumer Affairs. The Board testified that the insertion of "administrative penalties" to the title of Section 448-17 was made to clarify the type of penalties authorized to be ordered by the Board. Besides housekeeping changes, amendments made to Section 448-17(a) include providing the Board with clear authority to impose a fine as a disciplinary sanction. This authority is already provided in Section 92-17 and is included here for consistency. The inclusion of a violation of Section 447-4 is intended to alert dentists that they are also subject to disciplinary action for violations of the dental hygienists statute. The restoration of license provision is deleted because it is already covered in Section 92-17, which sets limits on license restorations. In line with the right to "fine" a licensee, subsection 448-17(b) has been added, which stipulates the limits for "fines", taking into consideration current times and the economy and providing penalties which will serve as a strong deterrent for violating Chapter 448. The word "criminal" has been added to Section 448-21 to clarify the types of penalties authorized by this section.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2113-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 343-86 Consumer Protection and Commerce on H.B. No. 2054-86

The purpose of this bill is to amend Chapter 437, Hawaii Revised Statutes, by adding new sections to provide for criminal penalties for violations of any provision of the chapter and to provide for cumulative penalties. The bill also amends Section 437-35 and addresses administrative penalties for violations of the chapter or rules of the Motor Vehicle Industry Licensing Board.

Your Committee heard testimony from the Motor Vehicle Industry Licensing Board (Board) of the Department of Commerce and Consumer Affairs in support of the bill.

The Board testified that presently, Section 437-35 addresses the administrative, civil and criminal penalties which can be imposed against a person who violates Chapter 437. To avoid confusion and to give clear notice to licensees of the possible consequences if they violate the law, the type of penalties which could

be imposed has been set forth in separate sections. Section 437-35 has been amended to address only administrative penalties. A new section entitled "Misdemeanor" addresses criminal penalties. The language in this new section was formerly incorporated in Section 437-35. A new section entitled "Cumulative penalties" is intended to ensure that licensees can be pursued under any one or all of the sections which provide penalties for violation of the law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2054-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 344-86 Consumer Protection and Commerce on H.B. No. 2112-86

The purpose of this bill is to amend Section 448-3, Hawaii Revised Statutes, by dividing the section into subsections (a), (b) and (c); to eliminate the term "general" in reference to supervision, direction and responsibility for dental assistants by dentists; to eliminate the reference to "offense" and to substitute "violation" therefor; and to clarify language and increase the amount of fines to be assessed for unlicensed dentistry.

Your Committee heard testimony from the Board of Dental Examiners (Board) of the Department of Commerce and Consumer Affairs in support of the bill. The Board testified that it is in the process of defining the various levels of supervision, direction and responsibility for dental assistants by dentists. The current language suggests that a dental assistant be under the general supervision of the dentist. The Board feels it is necessary to remove any reference to the type of supervision and handle this matter as part of specific rules regulating the work of dental assistants. The Board also stated that deletion of the word "offense" is necessary to "clean up" the language of the statute, because nowhere else in the statutes is the term "offense" used or defined. The term "violation" is defined in the statutes. Also, the increase in the amount of fines that can be assessed, as provided in the new subsection (c), is based on the fact that these fines have not been increased in over thirty years and, in light of today's economy, would now provide a strong deterrent effect in appropriate cases.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2112-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 345-86 Consumer Protection and Commerce on H.B. No. 2052-86

The purpose of this bill is to amend Chapter 464, Hawaii Revised Statutes, to add new sections on cumulative penalties and the right of an aggrieved person to appeal an adverse decision by the Board of Registration of Professional Engineers, Architects, Surveyors, and Landscape Architects (Board) of the Department of Commerce and Consumer Affairs to the circuit court. The bill also amends Section 464-10 to provide for the imposition of an administrative fine of not less than \$500 nor more than \$1,000 per violation and each day of violation of the provisions of Chapter 464.

Your Committee heard testimony from the Board and the Hawaii Society of Professional Engineers in support of the bill. The Board testified that Chapter 464 currently contains separate sections which address administrative, civil and criminal penalties which may be imposed on licensees. To ensure that licensees are put on notice that they can be pursued under any one or all of the penalty sections listed in Chapter 464, a new section has been added to provide that remedies or penalties are cumulative to each other. Also, the addition of the section entitled, "Appeal to circuit court" would conform to other statutes and to Chapter 91, pertaining to administrative procedures, by granting an aggrieved applicant or registrant this due process right for judicial review of the Board's decision.

The Board also testified that Section 464-10, Hawaii Revised Statutes, currently empowers it to suspend or revoke a license where the engineer, architect, surveyor or landscape architect poses a danger to public safety. The inclusion of a

fine as a disciplinary sanction is to provide another form of penalty when suspension or revocation may not be appropriate or warranted. Therefore, an amendment has been made to Section 464-10 to provide for an administrative penalty of a fine.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2052-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 346-86 Consumer Protection and Commerce on H.B. No. 2115-86

The purpose of this bill is to amend Section 457-12, Hawaii Revised Statutes, to clarify and to expand the causes for which disciplinary sanctions shall be imposed on a licensee, to delete obsolete pleadings and administrative proceedings requirements, to set forth a provision for imposition of an administrative fine, and to provide for cumulative fines.

Your Committee received favorable testimony from the Board of Nursing (Board) and the Department of Health. The Board testified that five additional causes for disciplinary action have been proposed for subsection 457-12(a), Hawaii Revised Statutes, to better protect the public; obsolete pleading requirements, practices and procedures for disciplinary proceedings against a licensee in subsections 457-12(b) and (c) have been deleted because statutory provisions in Chapter 91 clearly set forth administrative hearing procedures; subsections 457-12(a), (b) and (c) have been amended to provide for the right to impose limitations on a license and to impose an administrative penalty; and Section 457-12 has been amended to provide that remedies or penalties under Chapter 457 are cumulative to each other and to the remedies or penalties available under all other laws of this State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2115-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 347-86 Consumer Protection and Commerce on H.B. No. 2049-86

The purpose of this bill is to amend Section 442-9, Hawaii Revised Statutes, to add an additional ground for disciplinary action, to clarify provisions relating to revocation of a license, to provide for a fine as a form of disciplinary action, and to set the maximum amount of the fine. The bill also amends Section 442-19, Hawaii Revised Statutes, to increase the maximum fine and imprisonment penalties.

Your Committee received favorable testimony from the Board of Chiropractic Examiners (Board). The Board provided the following rationale for its proposed amendments:

1. Presently, subsection 442-9(a), Hawaii Revised Statutes, sets forth grounds for which a license can be refused, revoked or denied reissuance. An additional provision is added that would result in similar disciplinary action through the submission of false information to the Department of Commerce and Consumer Affairs.

2. Presently, subsections 442-9(b) and (c), Hawaii Revised Statutes imply that a revoked license may be "restored" by the Board. Conversely, Section 92-17, Hawaii Revised Statutes, states that a holder of a revoked license shall apply for a license only after the revocation period. Therefore, to avoid confusion and to conform with Section 92-17, Hawaii Revised Statutes, subsections 442-9(b) and (c) have been amended to delete reference to "revocation" and any variations of the term;

3. Presently, Chapter 442, Hawaii Revised Statutes, does not contain a provision to "fine" a licensee for violating the Chapter or rules adopted pursuant thereto. This bill will provide for a maximum fine of \$1,000 for any violation of this Chapter. This amount will be consistent with other fines within this Chapter.

4. Section 442-19, Hawaii Revised Statutes, is amended by deleting the minimum fine and imprisonment penalty provisions and increasing the maximum fine for criminal penalties from \$200 to \$1,000 and term of imprisonment from not less than 30 days to not more than 90 days.

5. This bill will delete gender references and indefinite modifiers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2049-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 348-86 Consumer Protection and Commerce on H.B. No. 2050-86

The purpose of this bill is to amend Section 444-23, Hawaii Revised Statutes, to establish a minimum penalty for any person who violates or fails to comply with the provisions of Chapter 444 and to clarify that the penalty shall be for each violation.

Your Committee received favorable testimony from the Contractors License Board (Board). The Board testified that establishing a minimum penalty would conform to other chapters in the Hawaii Revised Statutes. Also, specifying that the penalty shall be for each violation will provide notice to licensees of the consequences of statutory violations and will provide clarity for administrative proceedings.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2050-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 349-86 Consumer Protection and Commerce on H.B. No. 2046-86

The purpose of this bill is to amend Section 480-3.1, Hawaii Revised Statutes, to provide that penalties in this section are cumulative to the remedies or penalties available under all other laws of this State, and that each daily violation of Section 480-2 shall be considered to be a separate violation.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department). The Department testified that both amendments would make the chapter more effective, particularly in larger cases of consumer fraud.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2046-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 350-86 Consumer Protection and Commerce on H.B. No. 2051-86

The purpose of this bill is to amend Chapter 447, Hawaii Revised Statutes, by adding a new section which provides that remedies and penalties are cumulative to each other and to the remedies or penalties available under all other laws of the State. The bill also amends Section 447-6, Hawaii Revised Statutes, to consolidate and clarify prohibited acts and penalties, to remove the word "offense" from the statute, to increase the penalties for violations under Chapter 447, and to include a reference to a licensee's right to a hearing under Chapter 91, Hawaii Revised Statutes. The bill also amends Section 447-7, Hawaii Revised Statutes, to provide for the refusal to grant a license or the revocation of a license to a dental hygienist who files false information with the Department of Commerce and Consumer Affairs.

Presently, Sections 447-6 and 447-7 address the same substantive matters relating to sanctions to be imposed on a licensee for violation of Chapter 447. As a means to consolidate and clarify prohibited acts and penalties, the substance of

Section 447-7 has been incorporated into Section 447-6. The increase in penalties is based on the fact that the penalties have not been amended in over thirty years and, taking today's economy into consideration, are necessary to provide a strong deterrent effect on licensees. The deletion of the word "offense" and the insertion of the word "violation" in its place is necessary to clean up the language of the statute because "offense" is not used or defined anywhere else in the statutes. The inclusion of a reference to the licensee's right to a hearing under Chapter 91, Hawaii Revised Statutes, reflects current practices and procedures for the handling of disciplinary cases. The new provisions in Section 447-7 concerning false information were added to provide the Board with the power to deny or revoke a license from someone who falsifies an application. Correct information is essential to the integrity of licensing. The insertion of cumulative penalties is intended to ensure that a licensee can be pursued under any one of the provisions which provide penalties for violation of the law.

Your Committee received favorable testimony from the Board of Dental Examiners.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2051-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 351-86 Consumer Protection and Commerce on H.B. No. 2048-86

The purpose of this bill is to amend Chapter 91, Hawaii Revised Statutes, by adding a new section which would provide for administrative review of a denial or refusal by any board or commission listed in Section 26H-4, Hawaii Revised Statutes, to issue a license or certificate of registration.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department). The Department testified that this bill would require that any person who wishes to contest the denial of a license proceed to an administrative hearing process prior to appealing to the circuit court. Requiring the exhaustion of administrative remedies is an accepted legal doctrine and gives the boards, commissions and the Department the first opportunity to review the challenge.

Also, this bill would impose an overall deadline of sixty days for filing such an appeal. Current statutes provide a deadline of thirty days, or sixty days, or no deadline. Appeals should be filed in a prompt manner in order to ensure that the records are available and that memories of the event are fresh. This is particularly important in cases where it is the examination process which is the subject of the challenge.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2048-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 352-86 Consumer Protection and Commerce on H.B. No. 2116-86

The purpose of this bill is to amend Section 465-1, Hawaii Revised Statutes, to clarify the definition of the practice of psychology.

Your Committee received favorable testimony from the Board of Psychology (Board). The Board testified that the present language in Section 465-1, is an outdated definition of the practice of psychology and does not provide an updated or complete description of the practice of psychology. Also, the present definition makes reference to a specific diagnostic manual (DSM-III, published by the American Psychiatric Association). The Board testified that because diagnostic manuals are constantly changing and because of the development of other classification schemes which could better serve psychologists (e.g. ICD-9, published by the World Health Organization), it concluded that it would be preferable to delete reference to one specific diagnostic manual.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2116-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 353-86 Consumer Protection and Commerce on H.B. No. 2047-86

The purpose of this bill is to amend Chapter 487, Hawaii Revised Statutes, by adding a new section which stipulates that remedies and penalties provided by this chapter are cumulative to each other and to the remedies and penalties provided under all other laws of this State. The bill also amends Section 487-13, Hawaii Revised Statutes, to provide that each day that a person engages in unlicensed activity is a separate unlawful act or practice.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department) and the Hawaii Association of Realtors. The Department testified that the amendments would make the present law more effective, especially since unlicensed activity can cause major financial damage to consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2047-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 354-86 Consumer Protection and Commerce on H.B. No. 2029-86

The purpose of this bill is to amend subsection 26H-4(c), Hawaii Revised Statutes, to delete Chapter 359L (Factory Built Housing Advisory Board) which Board was abolished by Act 34, 1984 Session Laws of Hawaii. The bill also amends subsection 26H-4(d) by adding Chapter 454 (Mortgage Brokers and Solicitors) and Chapter 454D (Mortgage and Collection Servicing Agents) to the sunset review process, and to make technical amendments to the subsection.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department). The Department testified that the regulatory programs for mortgage brokers and solicitors and for mortgage and collection servicing agents are not currently scheduled for examination by the Legislative Auditor under the sunset review process. This bill proposes to have these programs reviewed at the same time as the Real Estate Commission because of the inter-relationships between these programs. Further, adding these programs to the sunset review process will bring these programs under the Compliance Resolution Fund Program in the Regulated Industries Complaints Office (RICO) of the Department of Commerce and Consumer Affairs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2029-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 355-86 Consumer Protection and Commerce on H.B. No. 1938-86

Section 403-92, Hawaii Revised Statutes, prohibits a bank from permitting any person to become indebted to the bank in an amount exceeding twenty percent of the aggregate of the bank's capital and surplus. One purpose of this bill is to clarify the law by expressly excluding from the computation of a person's "indebtedness" to a bank under Section 403-92 the amount of any "acceptance" liabilities created pursuant to Section 403-93 and the amount of any "deposit" liabilities created pursuant to Section 403-74. This is a technical revision and is not believed to be a substantive change in existing law. Limitations regarding acceptance liabilities and deposits are separately provided for in Sections 403-93 and 403-74.

Another purpose of this bill is to exclude from the computation of a person's "indebtedness" to a bank under Section 403-92 the amount of "Federal funds" sold

by a bank to another bank with a maturity of one business day or under a continuing contract. "Sales of Federal funds" are transactions among depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at Federal Reserve Banks or from credits to deposit balances due from a correspondent depository institution. A "continuing contract" refers to an agreement that remains in effect for more than one business day but has no specified maturity and requires no advance notice for termination. These transactions are permitted for national banks without regard to "loan limitations" and there is no good reason not to permit these transactions to state banks without regard to "loan limitations". Generally speaking, these are only one-day, inter-bank loans of a bank's excess reserves and the benefit to the lending bank is that it may, with extremely small if any risk, earn interest at relatively good rates on its excess reserves. The adoption of this provision would remedy what is now a competitive disadvantage to Hawaii state banks vis-a-vis national banks.

This bill also makes a technical, self-explanatory, revision substituting the designation "Commissioner of Financial Institutions" for "director of regulatory agencies".

Your Committee heard testimony from the advisory group to the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs and the Hawaii Bankers Association in support of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1938-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 356-86 Consumer Protection and Commerce on H.B. No. 2114-86

The purpose of this bill is to amend Section 451A-14.1, Hawaii Revised Statutes, by adding a provision that would waive the requirement of obtaining a medical examination by a prospective hearing aid purchaser; by extending the time period for which a medical examination is valid; and to delete gender references and indefinite modifiers.

Your Committee heard testimony from the Board of Hearing Aid Dealers and Fitters (Board) of the Department of Commerce and Consumer Affairs in support of the bill.

The Board testified that Section 451A-14.1, Hawaii Revised Statutes, presently requires all hearing aid purchasers to obtain a medical examination from a licensed physician within ninety (90) days of the purchase of a hearing aid. In 1979, the Food and Drug Administration (FDA) adopted regulations on hearing aids which provided that persons 18 years of age or older may waive the medical examination if they chose to do so. The regulations further provided that the results of any written medical examination must be signed by the physician within six (6) months of the purchase of a hearing aid. The waiver language proposed in this bill has been taken from the FDA regulations to provide the same option to a hearing aid purchaser 18 years or older the right to waive the medical exam; provided the hearing aid dealer and fitter advises the purchaser of the importance of a medical examination, and the purchaser is given opportunity to sign a statement of waiver. Further, the validation of the medical examination results is being extended to 6 months because the Board's current 90-day provision was considered by the FDA to be too stringent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2114-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 357-86 Consumer Protection and Commerce on H.B. No. 2041-86

The purpose of this bill is to amend Section 460J-18, Hawaii Revised Statutes, by deleting the two year statute of limitations for the Pest Control Board to proceed with an investigation or action against a licensee.

Your Committee heard testimony from the Pest Control Board of the Department of Commerce and Consumer Affairs and the Hawaii Pest Control Association in support of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2041-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 358-86 Consumer Protection and Commerce on H.B. No. 2043-86

The purpose of this bill is to amend Chapter 467, Hawaii Revised Statutes, to delete the residency requirement as a prerequisite to taking the real estate licensure examination and to delete the five-day hearing notice requirement.

Your Committee heard testimony from the Real Estate Commission (Commission) of the Department of Commerce and Consumer Affairs and the Hawaii Association of Realtors in support of the bill.

The Commission testified that it has reviewed the residency requirement provided in Section 467-9.5(1), Hawaii Revised Statutes, and believes that, while legal residency used to assist with the deterrence of unscrupulous individuals coming to Hawaii to operate, it no longer is a necessary criteria in view of stricter law and rules in place which aid enforcement. Further, the Commission has strengthened the requirements for broker applicants by requiring practical experience in Hawaii as a salesman to qualify for the examination and the recent bonding requirements for timeshare developers addressed the Commission's concern with respect to timeshare sales.

The Commission also testified that the deletion of the five-day notice of hearing requirement, as contained in Section 467-15, removes language that conflicts with Chapter 91, which specifies a fifteen-day notice for hearing requirement. The Commission believes the provisions in Chapter 91 should prevail.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2043-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 359-86 Consumer Protection and Commerce on H.B. No. 2044-86

The purpose of this bill is to amend various chapters of the Hawaii Revised Statutes to clarify sanctions which may be imposed against persons who violate the licensing laws.

Upon review of the various statutes relating to professional and vocational licensing, it was found that administrative, civil, and criminal penalties are combined in one section or disciplinary sanctions are not clearly defined to put licensees on notice of the consequences if they violate the law. To avoid any possible problems in initiating action against a licensee and on what basis action can be initiated, amendments have been made in the following manner:

Amendments to sections within Chapters 438 (Practice of Barbering), 460 (Osteopathy), 466 (Public Accountancy), and 468E (Speech Pathologists and Audiologists), Hawaii Revised Statutes, are to separate administrative, civil, or criminal penalties currently combined in one section. In setting the penalties apart, new sections were created and appropriately entitled. Housekeeping changes have also been made to the sections to remove indefinite modifiers and gender terms.

In line with these amendments, language has also been added to the chapters listed above, in addition to Chapters 437B (Regulation of Motor Vehicle Repair), 457B (Nursing Home Administrators Act) and 459 (Optometry) either by adding a new section or amending a current section regarding cumulative penalties. This provision is to provide clear notice to all licensees that they can be pursued under any one or all of the provisions which provide penalties for violation of the law that include administrative, civil, or criminal action.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs in support of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2044-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 360-86 Consumer Protection and Commerce on H.B. No. 1941-86

The purpose of this bill is to amend Section 403-94, Hawaii Revised Statutes, by increasing from \$5,000 to \$25,000 the amount of a bank's loans to its directors, officers, employees and agents in respect of which prior approval must be obtained by the bank's Board of Directors (or advisory, discount or executive committee).

The present amount (\$5,000) was set fourteen years ago during the 1972 Legislative Session. Your Committee finds that the \$5,000 limit is outdated and fails to reflect the effects of inflation. Federal law requires prior board (or committee) approval of loans to "insiders" only if the loans exceed \$25,000 and this bill would make the state requirement more compatible with the federal requirement. Your Committee feels that this bill would greatly alleviate the practical difficulties created by the outdated loan limit.

Your Committee heard testimony from the advisory group to the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs and the Hawaii Bankers Association in support of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1941-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 361-86 Consumer Protection and Commerce on H.B. No. 1720-86

The purpose of this bill is to repeal Chapter 270, Hawaii Revised Statutes, which requires all officers and employees in the service of any public utility to be residents of the State of Hawaii for at least one year immediately preceding their appointment or election.

Your Committee received favorable testimony from Hawaiian Electric Company, Inc., Hawaiian Telephone Company and Pacific Resources, Inc. Hawaiian Telephone testified that the present residency requirement is restrictive and counterproductive because it prevents the freedom of moving human resources. Accordingly, the repeal of Chapter 270, Hawaii Revised Statutes, would give utility companies the freedom to compete effectively in this increasingly competitive environment.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1720-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 362-86 Consumer Protection and Commerce on H.B. No. 2193-86

The purpose of this bill is to amend appropriate sections of Chapter 485, Hawaii Revised Statutes, relating to Uniform Securities Act (Modified), to increase the amount of fees to more properly reflect administrative costs and to clarify the basis by which the Commissioner of Securities of the Department of Commerce and Consumer Affairs may deny or discipline a licensee or registrant under the chapter.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs in support of the bill. The Department testified that all fees relating to Chapter 485, Hawaii Revised Statutes, have not been raised in nearly fifteen

years and are currently much lower than the fees in most states. The fees proposed in this bill would bring Hawaii's fee schedule closer to the average fees charged throughout the United States. The Department also testified that the statutes have not kept up with the current state of the law with regards to the disciplining of broker-dealers, investment advisers, securities salesmen, or investment adviser representatives. In order to prevent any "void for vagueness" problems, this bill proposes precise grounds which the Commissioner of Securities may utilize in disciplinary situations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2193-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 363-86 Consumer Protection and Commerce on H.B. No. 2375-86

The purpose of this bill is to amend Section 294-39, Hawaii Revised Statutes, to specifically exempt any operator of a motor vehicle owned by that person's employer during the normal course of employment from the general penalty provisions of the mandatory insurance requirements.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs, the Hawaii Insurers Council and the Legal Aid Society of Hawaii.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2375-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 364-86 Finance on H.B. No. 1676-86

The purpose of this bill is to: (1) exempt from the general excise tax amounts received by licensees from the sale of tangible personal property shipped or transported out of state for sale in interstate or foreign commerce, whether in finished or unfinished condition, and whether or not sold or the title is transferred at the time they enter interstate or foreign commerce, including property sold for delivery out of state and (2) provide that, for purposes of exemption from the general excise tax, tangible personal property does not include the "tangible by-product of services" but includes computer software, custom computer software, and storage media used for such programs.

This measure will exempt all goods exported out of state from the general excise tax law regardless of the condition that they are in, and whether or not the goods are sold before or after they enter interstate commerce.

This measure would also exempt certain goods which incorporate services, such as computer software and its storage media, which are sold out of state. Under the current law, all services are assumed to be performed for the final consumer and are taxed at the four per cent rate. As proposed, defining software and media embodying the "service" element as tangible personal property would exempt these specific products sold outside Hawaii from the general excise tax.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1676-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 365-86 Finance on H.B. No. 1928-86

The purpose of this bill is to comply with Article VII, Section 6, of the State of Hawaii Constitution which requires that, whenever the state general fund balance at the close of each of two successive fiscal years exceeds five per cent of general fund revenues for each of the two fiscal years, the legislature shall provide for a tax refund or a tax credit to the taxpayers of the State in the next regular

session.

Your Committee received testimonies from Mr. Herbert Dias of the Department of Taxation and Mr. Lowell Kalapa of the Tax Foundation of Hawaii. Both Messrs. Dias and Kalapa testified that the subject bill satisfies the constitutionally mandated requirements.

Your Committee has approved a tax credit in the amount of \$1.00 to qualified resident taxpayers of the State. The amount of the credit shall reduce the tax liability of the taxpayers for the 1986 taxable year. If the tax credit exceeds the amount of tax due, or if there is no tax due, the excess amount of the credit shall be paid to the qualified taxpayer. The amount of the credit shall be multiplied by the number of qualified exemptions for the taxable year.

Your Committee has made some technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1928-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1928-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 366-86 Finance on H.B. No. 2582-86

The purpose of this bill is to amend the statutory provisions in the general excise tax laws to:

(1) Delete references to exemptions which limit the application to products and commodities manufactured, produced, grown, raised, or caught in Hawaii; and

(2) Clarify that the exemption for millers or processors of sugar and canners of pineapple and pineapple juice shall be applicable whether such products were milled, processed, or canned in the State.

Testimonies were received from Mr. Herbert Dias of the Department of Taxation and Mr. Lowell Kalapa of the Tax Foundation of Hawaii. Both Messrs. Dias and Kalapa testified that the bill is a housekeeping measure designed to amend the laws relating to general excise tax exemptions which contain discriminatory language. Deletion of the discriminatory exemptions will reduce the number of tax appeals based on the validity and constitutionality of the general excise tax laws.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2582-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2582-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 367-86 Finance on H.B. No. 1663-86

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

Your Committee finds that child care centers meet the basic philosophy, values, and mission of the University of Hawaii in terms of access to education. Creating access to the university system for students is a major goal of the State of Hawaii.

Your Committee has amended this bill by limiting the services provided by the child care centers to the children of university students only.

Your Committee has further amended this bill to emphasize that the construction and operation of the child care centers shall be accomplished without additional cost to the State. Therefore, (1) provisions allowing for the construction of the

child care centers financed by the issuance of general obligation bonds or revenue bonds have been deleted and (2) paragraph 1 of page 2 of the bill has been amended to read that:

"The operation of each child care center shall be self-supporting, with revenues from fees charged for child care services and any donations to the center being sufficient to pay for the expenses of operation, including expenses for debt service incurred in the construction of such child care center."

Further, paragraph 3 of page 2 has been amended by deleting from the second sentence the words "any asset of the university, including" to clarify the point that assets under the jurisdiction of the university are not assets per se of the university for purposes of loan security.

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

Signed by all members of the Committee except Representative Leong.

SCRep. 368-86 Finance on H.B. No. 1707-86 (Majority)

The purpose of this bill is to improve decision making in the management of our ocean resources by appropriating funds for the establishment of a statewide marine resources inventory system and to designate the Department of Planning and Economic Development as the expending agency.

A major constraint to properly managing our ocean environment is the lack of a comprehensive data processing system that is accessible to various user groups and one that is designed based on user needs. Too many marine management decisions are being made on a "best guess" basis simply because much of the available data are often not usable by anyone other than the generating organization because of the wide disparity in formats and display modes. The proposed system provides for uniform digitization of existing data bases which would significantly enhance their applicable usefulness by any on-line-user. It is also important to note that the State expends huge sums of money for ocean and marine environmental research but the data acquired serve no useful purpose for anyone other than the researcher in the absence of the proposed system.

While the proposed system is labeled a Marine Resource Inventory System, it is more commonly referred to in the industry as a Geographic Information System which can also be extended to include land-based data. One of the more obvious applications would be the substantial reduction in the cost of preparing Environmental Impact Statements for both the public and private sectors which currently face huge costs for geographic data acquisition, interpretation, and interface formatting.

Implementation of such a system would serve to greatly enhance Hawaii's position as an influential Pacific leader as we move across the threshold of the "information age" armed with the necessary state-of-the-art technological data bases, not the least of which includes ocean and space. Such a system is critical to the intelligent management of our natural resources. The conflicting use pressures on the environment escalate and drive government decision making deeper into a crisis management mode.

Finally, your Committee finds that, as a result of interim work on this proposal, it is important that the system design be based on a user-needs analysis and that this step should occur at the beginning of the work sequence.

Your Committee recommends the following amendments to this bill:

- (1) Change the sum of \$400,000 appropriated for this program to \$200,000 on line 2, page 2.
- (2) Delete SECTION 4. in its entirety and renumber SECTION 5. to SECTION 4.
- (3) Make some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1707-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1707-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.
(Representative Anderson did not concur.)

SCRep. 369-86 Finance on H.B. No. 1678-86

The purpose of this bill is to expand respite programs by providing each county with funds to improve their elderly day care programs and respite centers.

It is highly desirable to enable frail aged individuals to remain in their own homes under the primary care of their own families. Many families, with regular periods of respite assistance, are able and willing to maintain this responsibility, thereby delaying the more costly alternative of long-term institutionalization.

Respite care, besides being more economical, is also psychologically beneficial for both the frail elderly and their families.

With the increase in the elderly population and the desire of more elderly to remain in their own homes as long as possible, your Committee sees a crucial need to expand all services that would make this possible. This would include providing for construction funds as well as operating funds to ensure the continued development of respite resources in each county.

Your Committee has made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1678-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1678-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 370-86 Finance 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 sums appropriated by the State. This commitment and support by the State have been instrumental for the counties to provide the essential services to victims.

Your Committee concurs with the amendments made by the House Committee on Judiciary requiring that the counties appropriate funds at a minimum of twenty-five per cent (25%) of the amount appropriated by the State.

Your Committee has made some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

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

Signed by all members of the Committee except Representative Leong.

SCRep. 371-86 Finance on H.B. No. 1699-86 (Majority)

The purpose of this bill is to establish a small business procurement assistance office in the Department of Planning and Economic Development (DPED) to assist

and encourage Hawaii's businesses to participate more in the federal procurement process and to compete with mainland firms for federal government contracts and subcontracts for goods and services.

According to testimony by the Department, limited assistance programs of this nature exist in Hawaii, such as the Small Business Administration's volunteer Senior Corps of Retired Executives (SCORE) counselor program, the Honolulu Minority Business Development Center (MBDC) in cooperation with the Hawaii Entrepreneurship Training and Development Institute, and Na Oihi o O'ahu for Native Hawaiian-owned businesses. DPED's Small Business Information Service (SBIS) offers limited assistance as proposed in this bill.

Your Committee is of the opinion that available assistance programs are limited, primarily to the necessary clerical and ancillary support services, and that outreach activities need to be provided to, not only the small businesses which are members of trade or non-profit organizations, but also to those which are independent in their marketing and exporting activities.

Your Committee has amended this bill by making some technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1699-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1699-86, H.D. 2.

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

SCRep. 372-86 Finance on H.B. No. 1700-86

The purpose of this bill is to establish an exchange program between the State of Hawaii and its regional sister-relationships in order to share theories, methodologies, and practicalities on economic development, trade, science, education, agriculture, tourism, and related activities in the promotion of continued goodwill and friendship and for the benefit of the peoples of these regions.

Your Committee concurs with the testimony by the Department of Planning and Economic Development, Hawaii's sister-relationships may be a valuable means for Hawaii to develop international goodwill and to foster cooperative efforts of an economic, educational, cultural, and social nature. Your Committee also concurs that the proposed exchange program could be a major positive factor in enhancing the several sister-relationships already established between Hawaii and other regions.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1700-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1700-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 373-86 Finance on H.B. No. 1684-86

The purpose of this bill is to appropriate out of the general revenues of the State an amount sufficient to educate the public about acquired immune deficiency syndrome (A.I.D.S.) and A.I.D.S. Related Complex (ARC) during the fiscal period 1986-1987.

Your Committee believes that the public should be properly educated about A.I.D.S. There is fear that, unless there is a broad dissemination of information about A.I.D.S., the level of hysteria and irrational fears will heighten as the number of A.I.D.S. cases increase. Potentially this fear could translate into people taking punitive action against those who have or are in contact with persons who have A.I.D.S.

Your Committee has amended this bill to provide that \$50,000 be appropriated for public education on A.I.D.S. and A.I.D.S. Related Complex (ARC) including

dissemination to the public of literature and information about these conditions.

Your Committee has also amended this bill by making some technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1684-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1684-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 374-86 Planning, Energy and Environmental Protection on H.B. No. 2282-86

The purpose of this bill is to: 1) reduce the total membership of the Pesticides Advisory Committee from sixteen members to eleven members; and 2) broaden and diversify the range of interests represented upon the Committee.

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

Your Committee wishes to note the concern expressed in testimony during deliberations on this bill. Specifically, it was noted that while this bill will expand the representation of the Advisory Committee, medical and research professionals that deal with the consequences of pesticide problems may or may not be included on the panel through the representation of the Department of Health or the College of Tropical Agriculture and Human Resources. Your Committee wishes to encourage the inclusion of medical and research professionals on the Committee through the representation of these organizations.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2282-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 375-86 Higher Education and the Arts and Consumer Protection and Commerce on H.B. No. 2117-86

The purpose of this bill is to define certain terms concerning "fine prints", and to establish specific statutory requirements pertaining to the sale of "fine prints".

Your Committees on Higher Education and the Arts and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2117-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 376-86 Judiciary on H.B. No. 2358-86

The purpose of this bill is to enable the U.S. District Court for the District of Hawaii to certify questions of state law to the Hawaii Supreme Court.

Under the present law, questions of State law can be certified to the Hawaii Supreme Court by the U.S. Court of Appeals for the Ninth Circuit.

A representative from the Judiciary submitted testimony in support of this measure. The testimony indicated that the U.S. District Court would like to be able to certify questions of law to the Hawaii State Supreme Court when the decision of the case turns upon a question of State law and there is no clear controlling precedent in the Hawaii judicial decisions.

Your Committee finds that the adoption of this bill would conform Hawaii law to the Uniform Certification of Questions of Law Act which has been approved by the American Bar Association.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2358-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCReo, 377-86 Judiciary on H.B. No. 2103-86

The purpose of this bill is to amend the Uniform Controlled Substances Act by amending the schedule of controlled substances to conform with changes made by the federal Control Substances Act and to strengthen the enforcement of the act.

The present law incudes schedules of controlled substances which are amended every session to conform with changes that are made to the federal Control Substances Act and also provides for the regulation and registration of the manufacture, distribution, prescription, and dispensing of controlled substances.

The bill proposes to amend the controlled substances schedules to conform with amendments to the federal act. The bill also provides that a registration may be suspended or revoked if the registrant has been granted a deferred acceptance of guilty plea or a nolo contendere plea to a felony; that the State issue prescription forms; and that authorities may seize firearms used during the commission of a violation of this law or any other drug laws.

Your Committee heard testimony in support of the bill from the Department of Health, Honolulu Police Department, Honolulu Prosecutor's Office, Hawaii Pharmaceutical Association and Hawaii Medical Association.

The Hawaii Medical Association expressed concern with the provision requiring prescriptions be written on State issued forms. The Association felt the proposed system would not curb the abuse problem and would create another layer of bureaucracy.

Your Committee amended the bill by deleting the provisions relating to the issuance of forms by the Department of Health.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2103-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2103-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 378-86 Judiciary on H.B. No. 2326-86

The purpose of this bill is to amend section 134-51, HRS, to raise the maximum fine from one thousand dollars to five thousand dollars for illegally carrying a deadly weapon.

The present law sets the maximum fine at one thousand dollars.

A representative from the Department of the Prosecuting Attorney submitted testimony in support of this measure. The testimony indicated that raising the penalty will allow the courts to exercise a broader discretion in levying penalties as a result of violations of this act.

Your Committee finds that adoption of this bill will provide for stiffer penalties.

Your Committee has also amended section 134-52, HRS, relating to switchblade knives to make it consistent with section 134-51, HRS.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2326-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2326-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.