

SCRep. 283 Transportation on H.B. No. 731

The purpose of this bill is to appropriate highway special funds for the study and planning of a marine highway system between Maunalua Bay and Aloha Tower to relieve traffic congestion on Kalaniana'ole Highway during the weekday peak periods.

Transportation is central to the State's economic development, and the provision of a safe, reliable, economical and coordinated land and water transportation system is critical to Hawaii. Evident to every resident who must commute to and from work or school during weekday rush hour, State roads and highways are reaching their maximum capacity, creating a need to study and implement alternate modes of transportation.

Recognizing that Hawaii is surrounded by a vast ocean, your Committee finds that the State should take advantage of this resource and pioneer the way for the implementation of a marine highway system. Waterborne transit could be a new beginning for the State of Hawaii.

Your Committee further finds that the rush hour traffic problems endured by the commuters of East Honolulu face the commuters from Leeward Oahu and Ewa as well. Therefore your Committee has expanded the scope of the study and planning activities to include the areas of West Beach, Ewa and Waipahu. In this regard, the bill was amended to include the study and the planning of a marine highway system between the West Beach/Ewa/Waipahu area and downtown Honolulu.

Your Committee has further amended this bill by adding a new Section 1 to clarify the purpose of the bill and to express its urgency and importance to the State.

Your Committee has also amended this bill by requiring that the marine highway be sensitive to the environment, be integrated with the state's land transit system, and be premised upon transporting commuters during peak hours with the possibility of use for tourism purposes during non-peak hours.

As received by this Committee, the amount to be appropriated by this bill was not specified. Your Committee, therefore, has further amended the bill by inserting the sum of \$300,000.

Other technical, nonsubstantive amendments have been made for the purposes of style and consistency.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 731, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 731, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 284 Transportation on H.B. No. 1177

The purpose of this bill is to amend the statutes to allow each county's Director of Finance to require the payment of any delinquent vehicle tax and assessed penalty as a condition of registering, renewing or transferring ownership of the vehicle.

Your Committee finds that current interpretations of the statutes permit charges of delinquent taxes and penalties to be made against the owner of a vehicle even if that person was not the vehicle's owner of record at the time the tax was due. Moreover, it is administratively impossible to assure that the person who actually incurred the delinquent tax and penalty is made to pay under the present interpretations of the statutes. This bill would remedy these inequitable situations by requiring payment of any delinquent taxes and penalties as a prerequisite to renewal or transfer of vehicle registration to insure satisfaction of these assessments by the appropriate vehicular owner.

Your Committee has amended this bill to correct a technical drafting error.

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

H.B. No. 1177, as amended herein, and recommends that it pass Second Reading in the form attached herein to H.B. No. 1177, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 285 Transportation on H.B. No. 1291

The purpose of this bill is to implement an administrative license suspension system by providing authority to the examiner of drivers, or police officers acting on the behalf of the examiner, to immediately suspend a person's license upon arrest for driving under the influence (DUI) of intoxicating liquor if the person is found to be legally intoxicated, or if the person refuses to submit to a breath or blood test. The bill also provides notification and review procedures.

Your Committee finds that currently, unless an offender pleads guilty at arraignment, the offender's license may not be suspended or revoked promptly. The offender may delay the subsequent trial for months or years, during which period the offender continues to drive. This has led to incidents where an offender is arrested several more times for DUI before being convicted for the initial offense.

This bill would keep the offender off the road by suspending the offender's license at the time of arrest for DUI. Due process considerations are addressed through prompt administrative review and judicial hearing, if necessary.

Your Committee received testimony in favor of this bill from the Department of Transportation and Mothers Against Drunk Driving (MADD). The Department of the Prosecuting Attorney of the City and County of Honolulu supported the intent and purpose of this bill but expressed reservations.

Your Committee amended Section 1 of the bill to clarify that the person must be notified in writing of the suspension or intention to suspend, as well as of the right to obtain prompt administrative and judicial review.

Your Committee further amended Section 1 to provide for the issuance of a temporary license effective for 15 days rather than 7 days, and to provide that the administrative suspension would be rescinded immediately upon the finding of a court of the person's innocence, or the dismissal of the case.

Your Committee amended Section 2 of the bill to clarify the criteria which determines whether an arrested person is penalized as a first time offender or as a repeat offender, and to provide that the administrative suspension would be rescinded immediately upon the finding of a court of the person's innocence, or the dismissal of the case by a court.

Your Committee made technical amendments to correct drafting errors, and for purposes of style and clarity.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1291, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1291, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 286 Transportation on H.B. No. 1760

The purpose of this bill is to allow the Department of Transportation to provide a loan or loan guarantee of not more than \$2,000,000 to the Pacific Aerospace Museum for the fabrication and installation of exhibits at Honolulu International Airport.

By way of a brief background, the Pacific Aerospace Museum, proposed for construction in the central lobby of the Honolulu International Airport, will provide visitors and local residents with an informative and attractive presentation of the history of Pacific aviation. The Museum's exhibits will involve both an interpretation of the history of aviation in the Pacific and a presentation of current and future technology. Its location in the central lobby of the terminal

building should be a valuable focal point for concession activity and facility development.

Favorable testimony was received by your Committee from the president and executive director of the Pacific Aerospace Museum and from Duty Free Shoppers. The testimony indicated that the major obstacle confronting the directors of the museum is the initial funding for the exhibits, but that a local bank has shown interest in a loan, provided a guarantor is secured.

The Department of Transportation opposed the bill due to the method by which the Department would act as guarantor of a loan to the Museum, but indicated it was supportive of the Museum's development at the airport.

Your Committee finds that the presence of the Pacific Aerospace Museum in the main lobby of the Honolulu International Airport should help to increase the consumer traffic of the surrounding concessionaires and expand revenues generated by the airport. Furthermore, this private, non-profit agency has been offered a 30-year, rent-free lease, indicating the endorsement of the museum by the Airports Division.

Your Committee has amended Section 1 to authorize the Department of Transportation to provide only the loan guarantee by deleting all references to "loan", and by deleting subsection (d) which pertained to requirements of the loan.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1760, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1760, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 287 Higher Education and the Arts on H.B. No. 1550

The purpose of this bill is to formally charter the Bishop Museum as Hawaii's State Museum of Natural and Cultural History and to have this status implemented through an annual appropriation of not less than twenty percent of its operating budget, and to appropriate funds out of the general revenues for this formal chartering of the Bishop Museum.

Bernice Pauahi Bishop Museum has served these islands and the Pacific for ninety-seven years. It is recognized worldwide as the major scientific and cultural institution for Hawaiian and Pacific artifacts. The establishment of a formal partnership between the State of Hawaii and Bishop Museum will help insure the Museum's survival as a viable cultural, educational, social and informational resource.

Testimony was received from Bishop Museum, the State Foundation on Culture and the Arts and the Sierra Club in support of this bill. Your Committee believes that the State should formally recognize the Museum as Hawaii's State Museum. It is, therefore, the desire of your Committee that Bishop Museum be officially designated as the State of Hawaii Museum of Natural and Cultural History, its status to be implemented through an annual appropriation from the general revenues and through statutes. Your Committee feels that this formal recognition, along with a consistent base of public funds on an annual basis, will contribute to the Museum's stability and help improve and expand its services.

Your Committee is of the opinion that this official designation shall not impinge on the autonomy of the museum, nor imply State control over its programs or policies except to provide the Director of the Department of Land and Natural Resources and the Legislative Auditor authority to examine the use of State funds. Also, the Director of the Museum shall submit to the Legislature an annual report which includes, at the minimum, an explanation of the facility maintenance and other functions accomplished by State funds expended in the previous fiscal year.

Your Committee believes that the criteria for sufficient funding by the State to the Bishop Museum are best established by your Committee on Finance. Therefore, your Committee has made token appropriations of one per cent of budgeted operating costs, in Section 2, and a \$1 appropriation for fiscal year 1987-1988 and added a token \$1 appropriation for fiscal year 1988-1989, in Section 3.

Your Committee has further amended the bill as follows:

- (a) To include, in Section 1, the full name of the Museum to be precise in its designation,
- (b) To rewrite Section 2 of the bill to officially designate the Museum as stated above,
- (c) To add a new section and number it as Section 3, to clarify the State's role in the Museum's affairs as stated above,
- (d) To add a new section and number it as Section 4, to amend Chapter 6E, Hawaii Revised Statutes, to add a section to reflect this official designation in Hawaii Revised Statutes,
- (e) To change, in Section 3 which has been renumbered to Section 5, the reason for the appropriation to read "to fund" rather than "the formal chartering of" (page 2, line 12) and to designate the Museum as it is stated above,
- (f) To add a new section to be numbered Section 7, to conform to Ramseyer format,
- (g) For reasons of consistency, to renumber Sections 4 and 5 to Sections 6 and 8 respectively,
- (h) To make some technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 1550, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1550, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 288 Higher Education and the Arts on H.B. No. 1833

The purpose of this bill is to establish a fund to be known as the Hawaii Music Performance Trust Fund whose sole purpose is to provide a public funding vehicle to satisfy the requirements of the Music Performance Trust Funds in cosponsoring public performances.

The Musicians' Association of Hawaii submitted testimony which stated that the goal of the Music Performance Trust Funds (MPTF) is to present live musical performances by instrumental musicians at times and places which contribute to the public knowledge and appreciation of music in all of its forms, and for which no fee is to be charged for attendance. This bill will provide the necessary vehicle to meet the MPTF's requirement of a fifty per cent matching program.

While in agreement with the intent of this measure, your Committee has some concerns with the mechanics of this fund, such as what criteria are used in determining which organizations are eligible to obtain these performances, what rules are then to be used in selecting which organizations are to receive performances, and how the musicians who are to perform are chosen. However, your Committee is of the opinion that the bill has sufficient merit to warrant further consideration.

The bill has been amended as follows:

- (a) Addition of the purpose of the fund to page 1, line 6 after the word "fund", because there is no purpose stated in the bill,
- (b) Deletion of "which shall be administered by the Department of Accounting and General Services." (page 1, lines 6-8) and insertion of a new sentence "The fund into which all moneys and assets received by the Department of Accounting and General Services as appropriations, gifts, and donations for the purposes of this fund shall be deposited.",
- (c) Deletion of "The department, in accord with Chapter 91, may adopt rules to carry out the purposes of this section." (page 1, lines 13-15) and insertion of

"The trust fund established by this section shall be administered by the Department of Accounting and General Services."

(d) Deletion of "to establish the Hawaii Music Performance Trust Fund" (page 2, lines 2-3) and insertion of "or so much thereof as may be necessary in fiscal year 1987-1988, as a supplement to the fund established in Section 1 of this Act."

(e) Correction of some technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Higher Education and the Arts is in accord with the intent and purposes of H.B. No. 1833, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1833, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 289 Higher Education and the Arts on H.B. No. 1210

The purpose of this bill is to appropriate \$1,500,000 for the production and promotion of a television documentary or a series of television documentaries examining Hawaii's space assets and potential role in space research, exploration, and utilization.

Testimony was received from the Hawaii Public Broadcasting Authority (HPBA), the Department of Planning and Economic Development (DPED), the Chairman of the University of Hawaii Space Research Advisory Committee, and two members of Hawaii's Congressional Delegation in support of the intent of this bill. It was felt that such a documentary could educate Hawaii's people and to publicize to others this State's potential role in space-related industries.

However, there were some concerns expressed, including those of the Sierra Club, Hawaii Chapter, that this documentary may be perceived as a promotional vehicle for the State of Hawaii and that its scope would not be broad enough. The HPBA emphasized that as a prerequisite for public television, programs must be journalistically sound. Programs must show all sides of an issue, and public television avoids broadcasting any program that even appears to be controlled by its funding source. The HPBA indicated that the scope of such a documentary could substantially treat a wide range of subject matters with varying degrees of complexity and costs.

While in agreement with the intent of the bill to provide a vehicle which could examine Hawaii's potential role in space-related industries, your Committee believes that a \$200,000 appropriation for fiscal year 1987-1988, and for fiscal year 1988-1989 would be sufficient to accomplish the production aspects of this project. Your Committee also finds that at this time it would be premature to appropriate the sum of \$1,000,000 for promotional costs. Your Committee, therefore, has amended the bill to reflect these opinions.

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

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 1210, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1210, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 290 Education on H.B. No. 628

The purpose of this bill is to appropriate \$20,000 to be expended by the Department of Education in fiscal year 1987-1988 to send four student representatives and one advisor to the Future Homemakers of America National Leadership Conference.

Since its founding in 1945, the Future Homemakers of America program has provided educational as well as social activities to over seven million participants nationwide. At the present time, it has a national membership of three hundred

and fifty thousand young men and women.

Future Homemakers of America is the only in-school organization with the family as its central focus. It is a valuable vocational education student organization that functions as an integral part of the home economics education curriculum and operates within the school system providing opportunities for active student participation at local, state, and national levels.

Your Committee has amended this bill to authorize the expenditure of this appropriation for other state and national programs sponsored by the Future Homemakers of America organization, in addition to the National Leadership Conference.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 628, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 628, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 291 Education on H.B. No. 562

The purpose of this bill is the appropriation of an undesignated amount to be expended by the Department of Education (DOE) for fiscal year 1987-1988 for one permanent general fund position for the Waipahu Cultural Garden Park to be assigned to the Leeward district office.

According to the testimony presented by the DOE, numerous Leeward Oahu students currently take advantage of the many excellent educational activities and historic resources at the Waipahu Cultural Garden Park. And while the DOE supports this measure, it recommended that the educational coordinator position be a teacher rather than an educational officer. And as a result, the bill has been amended accordingly.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 562, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 562, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 292 Education on H.B. No. 1296

The purpose of this bill is to appropriate an undesignated amount in the fiscal biennium 1987-1989 for the Immigrant Learning Center of Kalihi-Palama Immigrant Service Center, to provide intensive instruction in the areas of English as a second language, mathematics, basic survival skills, and appropriate classroom behavior to recently arrived immigrant and refugee students in Honolulu's public schools.

Testimony opposing the bill from the Department of Education (Department) indicated that the proposed program may be a duplication of services already provided by the Department. However, since the Department believes that assistance to newly arrived immigrant students and families is desirable and necessary, representatives of the Department and the Kalihi-Palama Immigrant Service Center are meeting to develop an agreement on the scope and implementation of this program.

Your Committee finds that since questions on this proposal may be resolved soon through cooperative efforts, the measure should proceed through the legislative process as the services proposed appear to be extremely valuable to the State's immigrant population. Therefore the bill's previously unspecified appropriation section has been amended to appropriate \$1.00 to the program.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1296, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1296, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 293 Education on H.B. No. 1297

The purpose of this bill is to appropriate \$100,000 to be expended by the Department of Education in fiscal year 1987-1988 for the Hawaii Jazz Preservation Society music education programs.

The Department of Education (Department) testified in favor of this bill provided that funds for this program will not be taken from other essential programs. The Department believes that the proposed educational program of jazz performances and clinics of the Hawaii Jazz Preservation Society will complement and support the Department's efforts to bring greater awareness of jazz, America's splendid cultural art form, to Hawaii's youth.

Testimony from the Hawaii Jazz Preservation Society (Society) changed their original request and proposed an expanded program which would include the following elements:

(a) An electronic instrument bank and synthesizer recording lab with a customized laboratory equipped with a tape machine, mixer, sequencer, drum machine, and two synthesizers. The recording lab would be a mobile unit and would be made available to all music students at all public schools.

(b) A Jazz Clinics program which would provide clinics and seminars for elementary and secondary school students in all aspects of music.

(c) A Jazz Sheet Music Library which would provide a centralized lending library of purchased and donated music arrangements and charts for various-sized ensembles, and for the different levels of student accomplishment.

(d) A Jazz Archive which would enable students to listen to, and learn about jazz classics as well as contemporary jazz.

The Jazz Preservation Society further testified that this request is a one-time start-up appropriation with continuing program funding to be provided to the State from fundraising activities of the Society.

Your Committee finds that this unique program would enhance the music programs of the Department.

And as a result of the compelling testimony submitted, this bill has been amended to change the amount of the appropriation to \$141,000.

Your Committee on Education is in accord with the intent and purpose of H.B. 1297, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1297, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 294 Education on H.B. No. 1433

The purpose of this bill is to issue general obligation bonds in an unspecified amount in fiscal year 1987-1988 to be expended by the Department of Accounting and General Services for the construction of a building with four classrooms at Kaunakakai Elementary School on Molokai, and a parking lot at the new building.

Testimony from the parents and teachers of the school indicated critical space problems exacerbated by enrollment growth. And as a result, concern for the health, safety and welfare of the students, teachers and administrators of the school has been expressed.

While your Committee is sympathetic to the problems raised and appreciates the time and effort involved on the part of Molokai residents appearing at the hearing, further information from the Department of Education regarding the issues raised and their recommendations are critical before a specific dollar amount can be determined. Therefore, the bill has been amended to include an appropriation of \$1.00.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1433, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1433, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 295 Education on H.B. No. 1479 (Majority)

The purpose of this bill is to provide: (1) \$125 per day to Board of Education (Board) members who attend and participate in official Board meetings; (2) \$100 per day for those who attend authorized board meetings; and (3) \$100 for each Board member who participates as the Board's official representative at various functions,

At the present time, Board members receive only \$50 per day for each day's actual attendance at meetings. Testimony from the Board of Education indicated that this rate of compensation has not been changed for twenty years.

Your Committee finds that the time expended by Board members away from their work, families, and personal commitments has increased significantly over the years. Your Committee further finds that the responsibilities of the Board were increased when the Board was given the power by law to formulate policy and to exercise control over the public school system. A Board member occupies the most responsible and accountable position in the school system and by virtue of this, and the fact that Hawaii's statewide system is both unique and complex, these Board members are entitled to greater compensation. However, your Committee finds that the bill, as introduced, would establish compensation for activities not previously compensated. The present policy of compensating only official Board meetings, committee meetings, and subcommittee meetings should be retained. This measure has been amended accordingly.

Your Committee has amended this bill as follows:

(a) Section one has been deleted.

(b) Section two has been amended to reflect a raise in the daily compensation rate from \$50 per day to \$100 per day for each day's attendance at meetings.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1479, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1479, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 296 Education on H.B. No. 1831

The purpose of this bill is to appropriate \$319,000 to be expended by the Department of Education for the purchase of eight power mower units and five trucks, and for the hiring of nine additional staffmembers to maintain a 2 to 3 week mowing schedule of Oahu public school grounds rather than the present 4 to 5 week mowing schedule.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1831 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 297 Education on H.B. No. 1819

The purpose of this bill is to provide \$4,000 to be expended by the Department of Education in fiscal year 1987-1988 to enable Leihoku Elementary School to be a member of the Elementary School Consortium, and to send 4 representatives to the national annual meeting in New Orleans to share information on its Ungraded Language Program and to bring back ideas for new programs for elementary

schools.

The Department of Education, the Hawaii State Teachers Association, and many teachers and parents from Leihoku Elementary School testified in favor of this bill.

The Elementary School Consortium is a national network of thirty selected elementary schools initiated by the Association for Supervision and Curriculum Development. The consortium consists of schools selected for exemplary programs which foster excellence in education. Leihoku Elementary School was selected as a consortium member as a result of their Ungraded Language Arts Program. The program emphasizes the development of reading and language skills at the student's own pace between grades two and six and has shown positive results since its initiation.

Your Committee finds that participation in the national meeting would be a productive and beneficial use of education funds, and has requested that participants from Leihoku Elementary School who attend the meeting submit a report to the Department when they return in order to make this information available to other interested persons.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1819 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 298 Education on H.B. No. 1912

The purpose of this bill is to allow the deposit of charges on overdue books or materials into a revolving fund for use in replacing lost, damaged, or stolen books, or other library materials.

At the present time, overdue charges amounting to approximately \$28,000 per month are deposited into the general fund. At the same time, due to the growth in demand for all types of library materials, most libraries in the State library system lack sufficient materials. Based on current standards, there is an immediate need for approximately seven million dollars in the next biennium for books, records, and tapes, in addition to the amounts already included in the executive budget recommendation for fiscal year 1987-1989.

As introduced, this measure would authorize the State Librarian to use the revolving fund exclusively only for the replacement of lost, damaged or stolen books or other library materials. However, it is often difficult to replace such materials because they are no longer being produced. Your Committee has therefore amended the bill to allow the State Librarian flexibility in the purchase of books and library materials, if substitution is necessary.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1912, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1912, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 299 Education on H.B. No. 828

The purpose of this bill is to appropriate an undesignated amount to be expended by the Department of Education in the fiscal biennium 1987-1989 for critically necessary special education positions.

The Department of Education (Department), the Hawaii State Teachers Association, and the Hawaii Association for Children and Adults with Learning Disabilities testified in favor of the bill. All those who testified presented information which justified smaller class ratios for special education students.

At the present time, the Department is undertaking a revision to staffing standards for special education promulgated in 1975. The current staffing standards preceded the Federal Education for All Handicapped Children Act, Public

Law 94-142, and consequently did not anticipate the increased services to the handicapped which were mandated by that Act.

While your Committee finds that the present staffing standards have proved to be unrealistic in meeting student's needs, and that implementation of the proposed standards may contribute significantly to program improvement in the education of the handicapped, it is unable at this time to specify an exact dollar amount for the appropriation. And as a result, your Committee has amended the bill to include an appropriation of \$1.00 pending receipt of more exact information.

Other technical non-substantive revisions have been made for conformance to accepted bill drafting techniques.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 828, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 828, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 300 Education on H.B. No. 636

The purpose of this bill is to appropriate \$26,000 to be expended by the Department of Education in fiscal year 1987-1988 for an aide or deputy for the State Librarian.

At the present time the State Librarian has the same authority and responsibility as the directors of state departments, but has no deputies to help discharge these responsibilities. These responsibilities include attendance at directors meetings, planning and execution of state programs, and establishing policies and procedures for library personnel, facilities, and materials. The State Librarian also attends Board of Education meetings, committee meetings, and library advisory meetings conducted in the four counties. The State library system is one of the largest library systems in the world, with forty-eight libraries spread over a large geographic area.

Your Committee finds that a deputy for the State Librarian is needed because of the size and nature of our State library system, and that the deputy should be compensated at the same rate as a deputy director of a department. Your Committee has therefore amended this bill by changing the amount of the appropriation to \$61,560.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 636, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 636, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 301 Education on H.B. No. 630

The purpose of this bill is to appropriate funds to the Department of Education (DOE) for implementation of the Lions-QUEST Skills for Adolescence Program in intermediate and high schools. The funds would be used to train teachers and purchase program materials.

Substance abuse is a serious problem in the community, one which schools are in a position to help solve but for which school personnel have little training. This program addresses the underlying causes of adolescent drug abuse by teaching students skills for coping with personal and social difficulties which might lead them to abuse drugs. This program has been adopted by schools in several countries, and it is being pilot-tested in three Windward district schools this year, and the responses from students, teachers and parents have all been very favorable. The proposed appropriation would present the program to some 5,000 students next year at less cost than incarcerating two youths in the Hawaii Youth Correctional Facility for one year.

Your Committee received testimony from the DOE, the Hawaii State Teachers Association and the Hawaii Lions Club in support of this bill.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 630 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 302 Education on H.B. No. 1125

The purpose of this bill is to appropriate funds to Maui Hui Malama, an alternative education program for adults who have never earned a high school diploma, and certain minors whose circumstances prevent them from completing high school through normal channels (e.g. unwed mothers and students working to support families).

Your Committee received testimony from the Department of Education and Maui Hui Malama in support of this bill. Testimony indicated that the program serves approximately fifty persons at any one time on an open entry-exit basis, providing not only assistance in preparing for the high school equivalency diploma examination, but also instruction for the Adult Literacy Project and in English as a second language, and counseling and support services for students. This bill would provide less than half of the operating costs of the program, the remaining funds would be provided by the Maui United Way and other sources.

Your Committee finds that the work Maui Hui Malama is doing in making education available to those who have fallen out of the educational mainstream is important to the health of our community and to the lives of our citizens who want the benefits of education.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1125 and recommends that it pass Second reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 303 Education on H.B. No. 871

The purpose of this bill is to create a task force for the purpose of advising the Legislature on the advisability of establishing a teacher certification board for public school teachers.

Your Committee heard testimony from the Department of Education questioning the need for a task force or a certification board for teachers since the Department already has a program for teacher certification. The Hawaii State Teachers Association, however, testified before your Committee in support of this bill stressing the need to ensure that teaching certification standards are of the highest quality.

Your Committee agrees that the issue of improving the quality of teaching is more important today than ever before, and that the teaching profession itself must be responsible for establishing and maintaining the highest standards. In light of the proposals for educational reform, it is timely to discuss professionalism in teaching.

Your Committee has amended the bill as follows:

(a) The task force has been enlarged to thirteen members by adding one member from the Board of Education and one member from the Board of Regents of the University of Hawaii.

(b) The Department of Education, the University of Hawaii, the Board of Education, the Board of Regents, and the Hawaii State Teachers Association will appoint their own respective members rather than having the Speaker of the House and the President of the Senate appoint their members.

(c) The members of the task force shall be reimbursed for travel expenses necessary to their duties. An appropriation of \$15,000 has been added to the bill for this purpose.

(d) The task force will be responsible for investigating the possibility of

establishing a certification board for all teachers in the State, rather than only public school teachers.

(e) The task force will report twenty days prior to the convening of the 1988 regular session of the Legislature, and will cease to exist after adjournment sine die.

(f) The task force is placed in the Governor's Office for administrative purposes.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 871, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 871, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Levin.

SCRep. 304 Health on H.B. No. 948

The purpose of this bill is to provide funds to the Lupus Foundation of Hawaii for diagnosis, treatment and assistance to lupus victims in Hawaii. This Foundation is actively campaigning to promote awareness and interest in Lupus as well as provide moral support and research for the individuals who are diagnosed or suspected victims of Lupus.

Your Committee heard testimony from representatives of the Lupus Foundation, victims and family of Lupus and a physician involved in the research and treatment of Lupus in Hawaii. Testimony and questioning brought out that Lupus Erythematosus is a defect in the body's immune system which causes a person to produce abnormal antibodies. Furthermore, it was also brought out that women will contract Lupus five times more frequently than men and is most prevalent among women in their child bearing years, age 20-40. There is a high incidence among women in Hawaii.

The original request from the Foundation was for a larger sum to instigate research in Hawaii. Your Committee finds that the sum originally requested was not enough to begin a large research effort and that other research is being conducted in places more appropriate for this research.

Your Committee has amended the bill to show the emphasis on providing funds for the diagnosis, treatment and assistance for Lupus victims in Hawaii. The bill was also amended by inserting \$50,000 as the suggested appropriation for the next two fiscal years.

Your Committee on Health is in accord with the intent and purpose of H.B. 948, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 948, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 305 Health on H.B. No. 188

The purpose of this bill is to provide funds for the purchase of equipment, personal services expenses and other overhead expenses for a free clinic dedicated to providing health care to the elderly, poor and immigrants. This project has survived primarily on volunteer effort and through donations of money, services, time and equipment.

Your Committee finds that grass-roots efforts to provide needed medical care to people in need should be encouraged. Your Committee also finds that there should be a monitoring process for health care provided in our State. This project is requesting funds to support an ambitious expansion of services its current services in order to meet an expanding client load.

Your Committee finds that this is a program which should receive seed funding, as a pilot project, in order to both remain a viable clinic and at the same time develop other mechanisms to support their efforts and at the same time receive the benefit of appropriate medical review and monitoring.

Your Committee has amended the original request by providing \$20,000 as seed funding for operating expenses for fiscal year 1987-1988.

Your Committee on Health is in accord with the intent and purpose of H.B. 188, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 188, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 306 Health on H.B. No. 764

The purpose of this bill is to develop a system of statewide perinatal assessments and outreach services to high risk parents by expanding on efforts of the existing Healthy Start program.

Studies here and on the mainland show that about 80 percent of all serious abuse occurs among children five years and age and under, therefore, it is widely recognized that intervention occurring in the important perinatal period is an effective component for prevention.

In 1985 the Hawaii State Legislature authorized establishment of the Healthy Start program under State support to demonstrate the effectiveness of an effort to reduce the incidence of abuse in one geographic area among infants from birth to five years of age. The approach of the project was to comprehensively screen all families of newborns delivering during that period, to identify all families at risk for abuse and engage these families in supportive home visiting services. At this time, the results of the child abuse prevention component of the demonstration are significant and sufficient to recommend expansion of the program to other areas of the State.

Screening and home outreach programs are already established in Hilo, Kona, Maui, Molokai and Kauai. This bill would allow for the expansion of screening services to several additional medical facilities on Oahu, in addition to Kapiolani Women's and Children's Medical Center, and provide increased outreach services to at-risk families in geographic areas which show a high rate of confirmed abuse.

The Hawaii Public Health Association, Child Abuse and Neglect Coalition, Office of Children and Youth, Department of Health, in addition to the Hawaii Family Stress Center were among representatives who testified in support of the bill. The Department of Health recommended that the project budget be based on a phase-in process tied to the availability of the screening mechanism. In addition, they suggested that a portion of the funds and authorization for additional positions be directed to the Public Health Nursing Branch to support an outreach component to cover the Windward area of Oahu where no such services currently exist.

Your Committee on Health adopted the recommendations of the Department of Health by amending Section 2 of the bill to stipulate that: expansion be carried out on an incremental basis beginning with the two geographical areas that have the highest risk populations for child abuse and neglect. These are identified as Waianae Census Tracts 97 and 98 and the Kona area for which the sums of \$187,492 and \$96,330 have been appropriated respectively. In addition to the above figures, \$85,000 is also provided for Oahu assessment, training and technical assistance and \$150,000 is provided for the Public Health Nursing Branch of the Department of Health to carry out the Windward Oahu outreach project. The total appropriation for this program of child abuse and neglect prevention is \$518,822.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 764, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 764, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 307 Health on H.B. No. 745

The purpose of this bill is to provide seed funding for a project dedicated to

providing a preemployment training program on Oahu. This is seen as an initial step in supporting the vocational training continuum for individuals with mental health and/or substance abuse problems.

Your Committee received testimony from vocational training and mental health professionals in support of this bill. They pointed out the lack of vocational oriented programs between hospitalization/day care programs and employment services provided in the community. It was also found that similar preemployment programs have reduced the number of clients going on welfare and unemployment after hospitalization where these programs exist. Even a partial success rate in this preemployment program will save the state money that would have been spent on the continued welfare of these individuals.

Your Committee has amended this bill by slightly reducing the amount requested to \$150,000 in order to both express the the Committee's support for the project and at the same time encouraging the organization to seek the additional funding needed through other sources.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 745, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 745, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 308 Health on H.B. No. 569

The purpose of this bill is to provide funds to the GROW Community Mental Health program in Hawaii to assist in their efforts to establish a local branch of a distinguished international mental health movement.

Your Committee received testimony from many mental health professionals and organizations, as well as a large number of individuals involved in the GROW Network in support of this bill. GROW is a consumer based program dedicated to mutual and self-help services. It was established that a system of community-based services represents a cost-effective alternative to expensive and often unnecessary hospital treatment. This organization represents a proven and effective compliment to the wide range of community-based mental health services provided in our State.

Your Committee finds that consumer self-help programs are a key link in the system of mental health services and can be instrumental in keeping people from repeated and prolonged hospitalization. Your Committee also finds that it is important to support the deinstitutionalization efforts in our State where appropriate.

Your Committee is in accord with the intent and purpose of H.B. No. 569 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. 309 Health on H.B. No. 1828

The purpose of this bill is to allow for the authorization of general obligation bonds for the Waianae Coast Health Care Center to support their efforts to provide comprehensive health and medical care to the population of the leeward Oahu coast. The health care facility requires these funds to support the expansion of the delivery and scope of services. In addition to the needed renovations to the existing facility the Health Care Center is also constructing new facilities to integrate the newly incorporated mental health center for the area.

Your Committee received testimony from the administrator of the Waianae Comprehensive Health Care Center who presented the three to five year plans for renovation and expansion.

Your Committee finds that this facility has experienced a large growth in the population served and the demand for quality health and medical care services in a low income area. The Center has also explored a variety of mechanisms to

support this facility expansion and renovation of which the issuance of bonds is the cornerstone.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1828 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. 310 Intergovernmental Relations on H.B. No. 1629

The purpose of this bill is to remove the county councils from Hawaii Revised Statutes' Chapter 92 - Public Agency Meetings and Records.

Your Committee received testimony from Councilman Nakasone of Maui in favor of the bill and Common Cause/Hawaii in opposition to the bill.

Your Committee concurs with Councilman Bob Nakasone of the Maui Council that each of the four counties have within their charter, provisions to protect and promote "Sunshine" in their meetings, hearings and records. And Chapter 92 encroaches unnecessarily into the affairs of the councils.

In accordance with Chapter 92, oral testimony shall be allowed at every public meeting for boards and commissions. The councils are quite different from boards and commissions who meet once a month. A measure before the council will be addressed seven different times before it is final. Taking testimony at every meeting of the council has been cumbersome and confusing to both the council and the public.

As a result, your Committee has made the following revisions to this bill: Section 1 The purpose of this Act is to allow county councils to function under open meeting requirements and to tailor their procedures regarding open meetings, according to the mandates of their respective charters.

Your Committee also took into the concerns addressed by Common Cause/Hawaii and recommends having a 2 year trial period of allowing the county councils more flexibility. At the end of the 2 year period the Legislature can re-evaluate its decision.

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

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1629, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1629, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 311 Health on H.B. No. 680 (Majority)

The purpose of this bill is to protect the public health and welfare of the population by regulating smoking in the office work place, and to minimize the toxic effects of smoking in the work place by requiring an employer to adopt a policy that will accommodate, insofar as possible, the preference of nonsmokers and smokers and, if a reasonable accommodation cannot be reached, to prohibit smoking in the office work place. Determination of "reasonable" is left up to the Director of the Department of Health.

Your Committee heard overwhelming testimony in support of protection of non-smokers in the workplace. From doctors armed with scientific documentation on the adverse health effects of smoking, to non-profit health organizations defending the rights of clients, to workers in the public and private sectors whose poignant stories of ill health and harassment, the message was clear that the community expects us to do something about smoking in the workplace.

Your Committee received testimony from the American Lung Association, the American Cancer Society, the Hawaii Heart Association explaining a recent state-wide opinion survey. Among the results were that 79.6% favored legislation to

limit smoking in offices and workplaces, and those who support limits were 65% of the smokers surveyed! In addition, 85.7% favored a ban on smoking in public places.

Your Committee also heard testimony that average tolerances of tobacco smoke sometimes escalated into medically diagnosed allergies due to over-exposure at work. While employers are often sensitive to the computers, which are adversely affected by smoke, they are less interested in people. One estimate is that only 1% of employers have a policy for limiting smoking.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 680 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.
(Representative M. Ige did not concur.)

SCRep. 312 Health on H.B. No. 880

The purpose of this bill is to allow the Department of Health to disclose to the blood banks reports of persons who have, or are suspected of having, any blood-transmitted diseases.

At the present time, the Department of Health is statutorily authorized to disclose to the blood banks reports of persons who have had viral hepatitis to assist in the rejection of donors with such a history. Although donated blood is routinely screened for other blood-transmitted diseases, such as hepatitis B and AIDS, there is a slight possibility of tests producing a "false negative" during the early incubation period shortly after a donor is infected, as well as due to the possible limitations of the blood test.

Your Committee finds that it is in the interest of public health and safety that the disclosure of reports by the Department of Health be allowed to prevent the transmission of blood borne illnesses through blood transfusions.

Your Committee received testimony in support of this bill from the Department of Health.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 880 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. 313 Health on H.B. No. 1617 (Majority)

The purpose of this bill is to prevent discrimination in real estate transactions against people with acquired immune deficiency syndrome (AIDS) by amending the definition of "physical handicap" in Section 515, HRS, to include AIDS.

Your Committee received testimony indicating that AIDS is not transmitted through casual contact nor is it necessarily indicative of a particular sexual orientation or abuse of drugs. However, because of its recent and dramatic appearance those who contract the disease are sometimes subjected to alienation and discrimination by others whose fear is greater than their knowledge.

For these reasons your Committee finds that AIDS should be considered a physical handicap, and that those afflicted with the disease or other conditions related to AIDS should be protected against discrimination in real estate transactions as safe, decent and affordable housing is an entitlement to all residents.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1617 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

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

SCRep. 314 Health on H.B. No. 1618

The purpose of this bill is to prevent discrimination by the University against individuals who are victims of AIDS.

Your Committee heard testimony generally in favor of this bill. However, there was some question as to whether or not the proper approach was to amend the definition of "physical handicap".

The policy, adopted by the University of Hawaii Taskforce on AIDS states:

All persons infected with the AIDS virus, including students, staff, faculty and visitors, should be allowed free and normal access to all activities, programs and services on campus, unless medical authorities deem otherwise to protect either the affected student or the general public.

Your Committee has amended the bill to incorporate similar language.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1618, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1618, H.D. 1, and be referred to the Committee on Higher Education and the Arts.

Signed by all members of the Committee except Representative Leong.

SCRep. 315 Health on H.B. No. 663

The purpose of this bill is to provide funding for the acquisition of a mammographic facility for Kahuku Hospital.

Your Committee received testimony from the administrator of Kahuku Hospital and other health care professionals from the Koolauloa district of Oahu in support of this bill. These individuals presented that this area is the only district without a mammographic facility for early screening of approximately 10,000 target women population, age 35 and over.

Your Committee finds that diagnostic mammography has proven to be a valuable tool in the early detection and reduction of severity of breast cancer and is highly recommended by physicians and the American Cancer Society. Your Committee believes that health education, promotion and screening are effective in the fight to reduce disease and suffering in Hawaii. This facility supports these objectives.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 663 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. 316 Health on H.B. No. 1895

The purpose of this bill is to supplement the funding of the Peace Education Project of the Waianae United Methodist Church. This is a unique program in the leeward area of Oahu which addresses the need for primary education for the school children and youth in grades 5, 7, and 9.

Your Committee received testimony in support of this bill from the volunteers who participate in the program, parents of the area, principals and students from the schools and other citizens knowledgeable of the work done by this program in the Waianae area. The Peace Education Program has served over thirteen schools in the leeward area over the last five years, almost exclusively on volunteer effort. The requested funding will be used for providing trained community consultants to continue with the work with the children and youth of the leeward area schools.

Your Committee finds that it is never too early to learn the skills which aid in decision-making and how to cope with stressful situations as alternatives to violence, substance abuse and other undesirable social behaviors. Your Committee also finds that projects that are community based, school oriented, that work with

existing institutions and are run by members of a community have great potential for improving the self-esteem of youth and following that, the health of children and youth exposed to such programs. These are among the goals of your Committee on Health.

Your Committee finds that the requested amount was enough for the organization to barely survive and that important resources and valuable time will be lost if only the original request is granted. Accordingly, your Committee has amended the bill to include a \$5,000 increase in the requested amount (for a total of \$15,000) and has also provided that this sum shall be allocated for each of the two fiscal years of this session.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1895, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1895, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 317 Health On H.B. No. 1824

The purpose of this bill is to allocate funding to support the efforts of Ho'ola Lahui Hawaii, an affiliated Native Hawaiian nonprofit organization dedicated to correcting the health plight of the Hawaiian people and others in the community of West Kauai, including Ni'ihau.

Your Committee heard testimony from members of the West Kauai community, medical professionals from the area as well as others, and from representatives of the Office on Aging and the Office of Hawaiian Affairs (OHA) in support of this bill. The officer from OHA, when asked if they could also support this organization financially, responded that as this community has a 20% known population of qualified residents under OHA jurisdiction they were unable to fund the entire project.

Your Committee believes that the health status of the Native Hawaiian population is of special concern. It is important to support the efforts of organizations with the dedication, cultural sensitivity and creativity in planning health promotion activities which combine the applicable features of traditional Native Hawaiian healing concepts and practices with modern Western medicine. Your Committee finds that the West Kauai Hawaiian Health Education Project is such an organization.

Your Committee has amended the bill by reducing the amount requested for the two fiscal years by 20% as an indication of your Committee's desire to allow the Office of Hawaiian Affairs the opportunity to participate in the financial support of this project to the extent it is able.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1824, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1824, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.

SCRep. 318 Health on H.B. No. 598

House Bill Number 598 is a landmark bill for the rights and needs of the developmentally disabled population of our state and their parents and guardians. It seeks to ensure the best possible use of state and federal funds; to continue the deinstitutionalization policy of the state for those who would best thrive in smaller, community based, care homes; and to clarify the responsibilities of the Department of Health in the licensing, monitoring, and maintenance of programs and standards for community services. It also is intended to ensure that parents who take upon themselves the responsibilities and burdens of care for their disabled children will have more support and services available to them.

Your Committee received testimony from those urging a more accelerated program of deinstitutionalization, as well as those fearful that their children might be transferred to situations with inferior services and attention.

Your Committee believes there will probably always be a need for a facility like Waimano Training School and Hospital, but that its role in the broad spectrum of services will be smaller. In the future, Waimano will not need all of its current land and buildings, will serve only those most severely disabled or in need of hospital care, and will be a center for day care programs for those who live outside, throughout the community.

There is no doubt that as we seek to develop the most humane and appropriate services and support for these most vulnerable citizens of our state, more resources will be required. It is thus imperative that we make the most efficient use of alternatives which encourage the private sector to finance residential care facilities, to capture the maximum amount of federal Medicaid funds available, and to reward those courageous parents who are willing and able to care for their own relatives with developmental disabilities. Your Committee believes that the strategic targeting of such support services represents not only a humane policy, but also an investment which will save the state money in the long run.

Your Committee finds that in the previous year's budgets \$16 million has been spent on services for the 281 residents at Waimano Training School and Hospital, while the approximately 8,000 developmentally disabled individuals and 4,000 persons with mental retardation in the community have received the benefit of only \$2 million in state resources.

H.B. No. 598 does not call for taking away needed funds from persons now institutionalized, but rather calls for creative financing which should restore Medicaid funds to this needed area, and for more community based facilities and services for those persons best suited for that alternative.

Your Committee believes that the deinstitutionalization of Waimano should be accelerated, although this does not imply the complete closing of that facility. Community based services need to be unified in the same administrative unit within the department, and further attention is needed to ensure that the rights and needs of all concerned are met.

Among the reasons for a reassessment of our treatment of the developmentally disabled are:

1. Young adults with developmental disabilities or mental retardation are "aging-out" of the Department of Education's programs and aging into life in their communities, and need continued programs and services.
2. Older persons who, with struggle, patience and compassion, have kept their offspring with developmental disabilities or mental retardation at home are aging out of life with no peace of mind as to where their sons or daughters are going to live and be cared for.
3. Infants being born with the disabilities and their parents are not receiving adequate services to lessen the primary problems.
4. Many parents who keep their children at home are not being helped with respite care or day care programs.

Your Committee is also aware of the growing problems of community based group facilities in general, and the tension which sometimes results between facility residents and neighbors. Some communities have for various reasons, seen a proliferation of such homes.

Your Committee has recommended that the Department of Health develop rules to cover the comprehensive licensing and monitoring of such homes, including case management of each person's individualized care plan, and mechanisms to resolve disputes with the community.

Your Committee has made several amendments to this bill based on the testimony received:

1. The definition of "Developmental Disabilities" was changed to conform with Chapter 333E-2.
2. The definitions of "Generic Services", "Habilitation", "Interdisciplinary Team", "Least Restrictive Alternative", "Mental Retardation", "Representative" were changed or added as suggested or provided by the Department of Health.

3. The paragraph on the division of developmental disabilities and mental retardation was amended to define a comprehensive Developmental Disabilities System to be developed by the department and replace all references to a "division" to the "department". References to mental retardation were also eliminated from this paragraph.

4. A policy statement for the Community Services for the developmentally disabled was established: "The Department of Health's responsibility for the developmentally disabled and mentally retarded shall be under one administrative unit for purpose of coordination, monitoring, licensing, evaluation and delivery of services".

5. The statement "within funds available" was added to the descriptions of the services to be provided by the department.

6. A paragraph on "Eligibility" was added to define the requirements for participation in services.

7. The paragraphs on "Other licensed residential facilities", "Application for services; Individualized service plans" and "Provision of services" were modified with language provided by the Department of Health for standardization.

8. The subsection (b) under the paragraph on the "Rights of persons with developmental disabilities" stipulating the required notification of the contents of this chapter to a person, parent or guardian was eliminated. Subsection (d) providing that the enumeration and granting of the listed rights is subject to the availability of financial resources appropriated to the department was added.

9. The paragraph defining the "Statewide plan for services" was amended to require a plan in increments of 4 to 6 years with annual updates; language defining the requirements of the plan was eliminated.

10. The provisions within the "Rules" to be adopted to carry out this chapter has been changed from "may" to "shall"; these provisions were also expanded to include the development of a "single-entry" system for developmentally disabled persons; the requirement for determination of the interdisciplinary team before the transfer from one facility to another; the provision for parental involvement; the application for services including individualized care plans; a call for the rational distribution of facilities; and mechanisms to resolve complaints and conflicts with communities in which care facilities are located.

11. "Standards for services" has been changed to eliminate the identification of the types of institutions where these standards are to be met.

12. SECTION 4 was changed to identify the appropriate Chapter for repeal.

13. SECTION 5 was changed to eliminate references to specific funding amounts and to expand the language to require the Director of Health to interact with the Department of Social Services and Housing to maximize the federal funds for residential, day programs, family support services, respite and other services as applicable.

Your Committee has also made some technical, nonsubstantive amendments 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. 598, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 598, H.D.1, and be referred to the Committee on Finance.

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

SCRep. 319 Intergovernmental Relations on H.B. No. 1706

The purpose of this bill is to establish that for the fiscal year beginning July 1, 1987, the counties shall receive from the State grants-in-aid in the amount of \$87,000,000. The amounts are to be adjusted by the consumer price index for subsequent years.

Your Committee received testimony from the Mayor of Hawaii County, Hawaii State Association of Counties, Kauai County Council Intergovernmental Relations Committee and the Maui County Council. All testimony received supported approval of this bill. The Advisory Committee to Study Overlapping State and County Functions recommended that grants-in-aid be coupled with the granting of additional taxing authority.

While in agreement with the intent of this bill to provide for grants-in-aid, your Committee believes that the amount should be deleted and that the amount should be developed by the Finance Committee. Further your Committee feels that the Finance Committee should consider the grants-in-aid bill, the parking fines bill, and the excise tax bill as a total package of aid to the counties.

Further, your Committee recommends that the following percentages as provided by the Hawaii State Association of Counties represent an equitable sharing of the total grants-in-aid provided for in the bill:

Hawaii County 18.5%; Maui County 17.5%; Honolulu City and County 50.0%; and Kauai County 14.0%

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1706, as amended herein, and recommends that it pass Second Reading as H.B. No. 1706, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 320 Intergovernmental Relations on H.B. No. 1704 (Majority)

The purpose of this bill is to authorize the counties to levy, assess, and collect annually privilege taxes against values of products, gross proceeds of sales, or gross income. Further, it sets the rate at not more than one quarter of the rate imposed by the state under Chapter 237.

Your Committee received testimony concerning this bill from the Mayor of Hawaii County, the Hawaii State Association of Counties, the Hawaii County Council, the Department of Taxation, the Tax Foundation of Hawaii, and the Chamber of Commerce of Hawaii.

Your Committee finds from the testimony presented that the intent of providing additional taxing authority to the counties is in consonance with the recommendations made by the Advisory Committee to Study Overlapping State and County Functions. Further, your Committee finds from the testimony presented that this measure should be limited to the 4% rate.

Your Committee recommends that the word "and" should be inserted after the word "attorneys" on line 1 page 2. Further, the word "Chapter" on line 21 should be printed in lower case and the lead sentence on line 18 should be relocated to appropriately follow the new section title on line 17 above.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1704, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1704, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 321 Intergovernmental Relations on H.B. No. 1186

The purpose of this bill is to amend Chapter 237, Hawaii Revised Statutes, by adding a new section to provide for a general excise tax exemption and exclusion of all sales to the respective counties.

Your Committee received testimony from the Honolulu City Councils Intergovernmental Relations Committee, the Hawaii State Association of Counties' Intergovernmental Relations Committee, Chief Budget Officer City and County of Honolulu, the Chamber of Commerce of Hawaii, the Kauai County Council, and the Department of Taxation were all in support of this bill with the exception of the

Tax Department. The testimony presented strongly supported this measure.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1186 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 322 Intergovernmental Relations and Labor and Public Employment
on H.B. No. 1378

The purpose of this bill is to enable Hawaii to become a more active participant in international trade and commerce and assume a larger role in Pacific Rim affairs by establishing an international services and relations program within the Office of the Governor. This program will facilitate and coordinate visits to Hawaii by representatives of foreign governments, trade associations, businesses and other economic interests.

The Department of Planning and Economic Development (DPED) submitted testimony indicating that closer interaction between visiting foreign governments and business officials and the local community is fundamental to increasing mutual understanding and cooperation between Hawaii and other nations, especially those in the Asia Pacific region. In addition, this bill provides the necessary appropriation for each year of the fiscal biennium to carry out this purpose.

However, DPED expressed its reservations concerning a separate, statutorily established program, as proposed, because some of the program's functions outlined in the bill are already being carried out by the Office of the Governor and the International Services Branch of DPED. DPED stated that the frequency of visiting dignitaries and officials will likely increase, and as a result, there needs to be closer liaison with the Governor's Office with greater efforts made to accommodate individual visitors and official delegations and extend the proper courtesies they deserve. DPED indicated that it is moving in this direction and that it is considering an administrative restructuring of some functions to ensure improved coordination of services.

However, your Committees question the feasibility of making an executive department responsible for the above mentioned function in addition to other statutorily delegated responsibilities. Under the present administrative structure, it is likely that many foreign visitors are not being served at all. Moreover, your Committees are informed that there are past instances where inappropriate protocol courtesies have been extended. Another area of concern is that we are one of the only states without a National Council for International Visitors to involve the local business and educational communities in these visits.

Your Committees believe that an international services and relations program is necessary and should be placed within the Office of the Governor for better departmental coordination with enhanced flexibility and responsiveness.

DPED stated that key problems in effectively and efficiently serving foreign visitors have been insufficient notice, lack of staff, and restrictions on spending. These problems would be greatly reduced if the functions described above were placed in the Governor's Office, which has direct access at a moment's notice to a myriad of state services and personnel.

Your Committees conclude that if, as the Governor has suggested, the "Pacific Century" is already upon us, and that we must move "to the cutting edge of Pacific affairs", then an international services and relations program should be established to assist in the development of Hawaii as a center for high technology, international trade activity, and advanced university studies. Such a program will also enable Hawaii to remain competitive with other states which are aggressively pursuing economic opportunities throughout the Pacific Rim.

Your Committees on Intergovernmental Relations and Labor and Public Employment are in accord with the intent and purpose of H.B. No. 1378 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Cachola, Tungpalan, Jones and Medeiros.

SCRep. 323 Higher Education and the Arts and Labor and Public
Employment on H.B. No. 1750

The purpose of this bill is to amend Section 89C-2, Hawaii Revised Statutes, to provide that salary adjustments for graduate assistants of the University of Hawaii shall not be less than those provided under the collective bargaining agreement of the faculty.

At the present time, graduate assistant stipends have fallen behind salary adjustments made for other employees of the University. Faculty salaries were increased in 1977, 1978, 1980, 1982 and 1985 while graduate assistants have received no increases in these years. This has resulted in the University's inability to attract and retain graduate assistants who are offered higher stipends at competing institutions.

Your Committees heard testimony from the Dean of the Graduate Division of the University, the Graduate Student Organization, and the University of Hawaii Professional Assembly in support of the intent of this measure. Your Committees find that graduate assistants are a critical part of the educational program at the University. However, they are not allowed to act as a collective bargaining unit, which has in turn, resulted in inadequate representation in matters of economic compensation.

While in agreement with the intent of the bill to provide equitable fiscal treatment for graduate assistants, your Committees believe that an appropriation is not appropriate in this bill. Therefore, your Committees have amended the bill by deleting Section 2, and for purposes of style and clarity, have renumbered Sections 3 and 4 of the bill to Section 2 and 3 respectively.

Your Committees on Higher Education and the Arts and Labor and Public Employment are in accord with the intent and purpose of H.B. No. 1750, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1750, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 324 Higher Education and the Arts and Labor and Public
Employment on H.B. No. 1071 (Majority)

The purpose of the bill is to allow certain qualified University of Hawaii employees a choice between the State's existing retirement plans and an alternate retirement plan established by the Board of Regents.

The proposed alternate retirement plan has the following four characteristics. First, it allows an individual member of the plan to withdraw his or her share of the retirement plan in the event he or she leaves the University of Hawaii system. Second, it limits eligibility for the plan to those University employees who are new employees, or recently hired employees who do not yet have vested rights in the State's existing retirement plan, who are appointed pursuant to section 304-11, or members of bargaining units 07 and 08, or both. Third, it requires an annual State contribution to the plan in a sum equal to fifteen per cent of the total aggregate salaries paid to enrolled employees in the plan. The plan will then credit each participant with fifteen per cent of his or her total aggregate salary paid by the State. Finally, contribution to a member of the plan vests immediately, as opposed to the State's present requirement of a ten-year waiting period. The bill provides for an election by an individual eligible for the plan to become a member.

Your Committees find that the primary motivation for the bill is to provide a method which would permit certain employees of the University of Hawaii to transfer retirement contributions to their credit from one place of employment, in this case the State, to another. The intent of this bill is to overcome the impediments the University faces in recruiting highly sought after and qualified personnel. Members of this particular group have a tendency to relocate, and are reluctant to commit themselves, from the start, to retire in any one particular place. Given the choice between two universities, the one that offers a portable retirement plan would be the more attractive option.

Your Committees, having heard testimony from the University of Hawaii, the State Employees' Retirement System, the HGEA/AFSCME Local 152, as well as the

Another new aspect to this year's race was the money involved. The event generated a tremendous sum of money directly and indirectly: the teams involved spent an estimated \$200 million preparing for the race, some of it in Hawaii, as Dennis Conner trained his crew here. No one can tell just how much Australia benefitted from having the America's Cup Race. It certainly boosted Australia's years-long campaign to become better known to Americans, while the proceeds just from tourism during the event itself may exceed a billion dollars.

Your Committee received testimony from several groups in favor of this bill. All agreed that Hawaii is the ideal location for the next Cup defense, and that this opinion is shared by many people outside our State. Hawaii has strong and consistent winds which would tend to produce a quicker and more exciting race. It is a scenic place with good weather, attractive to would-be spectators. Television coverage would benefit not only from the beautiful scenery and abundance of other activities which could help fill broadcasts, but also from the fact that afternoon races here would be in prime time on the Mainland. And as Hawaii is located roughly in the middle of the Pacific, it is something of a neutral site, as well as being midway between the two main competitors, Australia and the mainland U.S.

The biggest obstacle Hawaii faces in its quest to host the America's Cup is the San Diego Yacht Club, as they are the sponsoring club of the defending champion and will have great influence on the site selection decision. The Governor's America's Cup Committee estimates that if San Diego is not selected, Hawaii will then become the primary contender. Favoring Hawaii are the other competitors, the media, and even San Diego's own winning skipper, Dennis Conner, who has publicly stated his preference for Hawaii.

Your Committee concurs that the potential benefits to our State are so great that we must make every effort to have Hawaii chosen as the site of the next America's Cup defense. Time is of the essence, as the decision is likely to be made within the next three to six months. Thus your Committee recommends that the DPED's goal should be the making of every effort to present a favorable case for Hawaii, and that the study be expedited as a means to that end.

Your Committee has made the following amendments to the bill:

- (a) Increased the amount of the appropriation from \$50,000 to \$100,000;
- (b) Inserted the words "and benefits" after the word "feasibility" on page 2, line 3;
- (c) Deleted the phrase "and if a favorable determination is made, to prepare a proposal to accomplish that goal." and substituted the phrase "and pursue as appropriate the efforts necessary to present a favorable case for Hawaii." on page 2, line 4; and
- (d) Deleted the words "on July 1, 1987" and inserted "upon its approval" in Section 4.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Ocean and Marine Resources are in accord with the intent and purpose of H.B. No. 1130, as amended herein, and recommend that the bill pass Second Reading in the form attached hereto as H.B. No. 1130, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 327 Agriculture and Planning, Energy and Environmental Protection
on H.B. No. 1427

The purpose of this bill is to appropriate \$45,000 for research and development of food processing using geothermal direct heat.

Your Committees find that the bill describes the need for research and development in this area and specifies the type of research that should be conducted.

Your Committees also find that the commercial development of Hawaii's abundant geothermal resources would be enhanced by the direct use (non-electric) application of geothermal brines which are now wasted.

Your Committees further find that there are potential agricultural applications such as the development of food processing, that would reduce unemployment and support the economy in the vicinity of prospective geothermal development.

Your Committees have also amended Section 3 of the bill by designating the Department of Planning and Economic Development as the expending agency for the funds.

Your Committees on Agriculture and Planning, Energy and Environmental Protection are in accord with the intent and purpose of H.B. No. 1427, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1427, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 328 Consumer Protection and Commerce on H.B. No. 1855

The purpose of this bill is to limit the amount of liquor license fees a liquor commission may collect to \$25,000 per annum per licensee for any class of license. The bill further requires any liquor commission which has received an amount in excess to conform its liquor license fee structure with the limit.

Your Committee has received testimony from the Hawaii Hotel Association, the Hawaii Chapter of the Association, the Kauai Chapter of the Association, the Hawaii Restaurant Association, the Hawaii Wholesale Liquor Dealers Association, and the Aston Hotels and Resorts.

Currently, the Liquor Commission of the City and County of Honolulu has set maximums on the license fees it can collect. Neighbor island counties have maximum fees for manufacturers and wholesalers, but have not provided a limit for retailers, dispensers, clubs, cabarets, and hotels. These unlimited fees have caused liquor fees to accumulate in the counties' funds because liquor fees have exceeded the levels needed for the operation and administration of the counties' liquor commissions.

Your Committee, however, is not convinced that the \$25,000 limitation will resolve the problem. Accordingly, your Committee has amended the bill by requiring that whenever a county liquor commission has any funds in excess of its operational and administrative costs, it must revise its liquor license fee and return its excess funds to existing licensees.

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

Signed by all members of the Committee.

SCRep. 329 Consumer Protection and Commerce on H.B. No. 1856

The purpose of this bill is to provide greater safeguards to consumers who utilize travel agencies and for more efficient administration of travel agencies by the Department of Commerce and Consumer Affairs. More specifically, this bill:

1. Allows the filing for a proceeding for a consent judgment under Section 480-22 for a collection from the travel agency recovery fund not later than six years from the accrual of the cause of action;
2. Provides a procedure where the Office of Consumer Protection may obtain a consent judgment and apply to the court for an order directing payment from the fund;
3. Provides that the trustees shall have the right to intervene and defend any application for an order to pay from the fund;
4. Establishes a procedure for payment out of the fund;
5. Provides that every travel agency and sales representative shall register and pay a renewal fee every year; and

6. Establishes the power and duties of the director of the Department of Commerce and Consumer Affairs to carry out the function and purposes of Chapter 468K.

Current law provides a recovery from the travel agency fund for a judgment from a lawsuit, but does not address the situation where recovery from the fund is based upon a consent judgment.

Your Committee has received testimony from the Department of Commerce and Consumer Affairs in support of the bill. A court has interpreted that a recovery from the fund is allowed only if the recovery is based upon a judgment from a lawsuit, which is not the intent of your Committee. The department also has testified that periodic renewal of registration is necessary to keep the department records current.

Your Committee has amended the bill by deleting "director" on page 6, line 3, of the bill and replacing it with "trustees" to correct the statutory reference. Your Committee also has made technical, nonsubstantive corrections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1856, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1856, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 330 Consumer Protection and Commerce on H.B. No. 227

The purpose of this bill is to establish the franchise for the Electrical Cooperative of Hawaii which shall have the right to manufacture, sell, and furnish electric power to consumers for commercial and residential purposes. The bill further provides that the cooperative shall have the right to acquire property for the proper conduct of its business, but shall not have the power or right to acquire the franchise or property of any other public utility company except with the approval of the Public Utilities Commission.

Your Committee has received testimony from representatives of the Public Utilities Commission, the Department of Commerce and Consumer Affairs, the Hawaii Electric Company, Inc., the Kauai Electric Division of Citizens Utilities Company and the Electrical Cooperative of Hawaii. While your Committee shared the concerns of those who testified against this bill, it believes that the need to provide utility services to remote areas of the neighbor islands warrants further discussion. It is your Committee's hope that the proponents of this bill will be able to provide additional information and data to address adequately the concerns raised before your Committee to justify ultimate approval of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H. B. No. 227 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 331 Consumer Protection and Commerce on H.B. No. 736

The purpose of this bill is to authorize the Commissioner of Financial Institutions to license foreign banks and to establish representative offices, non-depository agencies and depository agencies. This bill also appropriates funds for the establishment and operations of a temporary commission for the promotion of international and foreign banking to be expended by the Office of the Governor.

Your Committee has received testimonies from the Department of Commerce and Consumer Affairs, the Department of Planning and Economic Development, the Department of Taxation, and several financial institutions in support of promoting international banking services in the State of Hawaii. International banking will enhance economic activity in the State and will contribute to the State's development as an international business center.

The Commissioner of Financial Institutions also testified that there are already financial institutions transacting business in the State. The bill will require all

foreign entities doing business to the same state examination and supervision, licensing criteria, and regulatory requirements as other licensed financial institutions.

Your Committee has amended the bill by deleting lines 6 to 8, page 18 of the bill, because the language refers to a foreign bank with a majority-owned subsidiary transacting business in the State, which does not occur in Hawaii.

Your Committee has further amended the bill by deleting obsolete references to the Depository Institutions Deregulation Committee and Regulation Q, and further providing that the depository agency shall be subject to applicable federal deposit regulations in page 23, Section 37 of the bill.

Your Committee also has provided that \$100,000 be appropriated out of the general revenues of the State for fiscal year 1987-1988, for the establishment and operation of a temporary commission for the promotion of international and foreign banking.

Your Committee also has made technical, nonsubstantive corrections throughout the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 736, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 736, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 332 Consumer Protection and Commerce on H.B. No. 1246

The purpose of this bill is to provide that no cease and desist order of the Insurance Commissioner, or order of the court to enforce it, shall relieve or absolve in any way any person affected by the order from any other liability, penalty, or forfeiture under law.

Your Committee has received testimony from the Department of Commerce and Consumer Affairs and from an interested attorney in support of the bill.

By way of a brief background, in 1983, the Legislature enacted language relating to unfair methods of competition and unfair and deceptive acts and practices in the insurance industry which was adopted by the National Association of Insurance Commissioners (NAIC) as the model act. Your Committee notes that the language contained in this bill has been deleted from the proposed model act.

Your Committee finds that the current administrative procedure for cease and desist orders by the Insurance Commissioner are inadequate and do not afford compensation to the individual damaged by the insurance carrier's unfair claim settlement practices. Therefore, your Committee emphasizes its accord with the provisions of this bill clarifying that the cease and desist order is not the exclusive remedy.

Your Committee has amended the bill by removing the phrase "in any way" and replacing it in line 14 of the bill for the purpose of grammatical correction and substituting "required by law" with "under law" because your Committee intends that remedies available under common law shall also be applicable in this provision.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 1246, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 333 Consumer Protection and Commerce on H.B. No. 754

The purpose of this bill is to ensure the continuation of the special fund of the Business Registration Division of the Department of Commerce and Consumer Affairs by repealing the repeal clause which would eliminate the fund on July 1,

1988.

Your Committee has received testimony from the Business Registration Division of the Department of Commerce and Consumer Affairs in support of the bill. The special fund was established from the handling fees for processing business registration documents and used by the division to employ two temporary business registration assistants in the division.

Your Committee notes that the new corporation codes enacted by the Legislature will become effective on July 1, 1987. Accordingly, your Committee has amended the bill by providing that special handling fees be adjusted and increased and that these adjustments be provided for in Sections 415-128 and 415B-155 of the Hawaii Revised Statutes. The references in Sections 482-2 and 482-3 to the special fund were also amended.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 754, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 754, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 334 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on H.B. No. 551 (Majority)

The purpose of this bill is to enhance rights of lessees of agricultural lots, to include protection from discrimination, the right to assign a lease under certain circumstances, protection from unconscionable increase in rent, a right of first refusal if the property is sold, and compensation for improvements left behind when a lease term expires.

Your Committees received testimony on the bill from several individual farmers and the Kona Farmers Cooperative, all in support of the bill.

Your Committees believes that leaseholders deserve greater security, and that this bill will provide needed support for the state's diversified agricultural industry by giving farmers fair and appropriate protection.

Your Committee has amended the bill by providing that it will apply immediately upon the effective date of the Act.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of H.B. No. 551, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 551, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, D. Ige and Tajiri.
(Representative Say did not concur.)

SCRep. 335 Ocean and Marine Resources on H.B. No. 1122

The purpose of this bill is to appropriate money to the Department of Planning and Economic Development to study the ocean recreation industry and to identify which sectors are producing the greatest impact on Hawaii's economy. Additionally, the study would target areas where marketing and promotion are needed to take advantage of growth opportunities.

The Ocean affords dozens of recreational opportunities, from fishing, boating, and paddling to diving, swimming, and surfing. For Hawaii residents, ocean recreation is a pleasurable pastime, and for visitors, it is a major reason for vacationing in Hawaii. The opportunities to enjoy ocean recreation are created by many small businesses, and these opportunities have increased dramatically in the last several years. The Ocean Recreation Council of Hawaii (TORCH) estimates that ocean recreation is a \$200 million-a-year industry.

This bill would appropriate a sum of \$60,000 for a study by the Department of Planning and Economic Development in coordination with TORCH, a non-profit organization of ocean recreation businesses, groups, and individuals.

The study would determine what revenues are generated through sales of equipment and supplies and provision of services. It would also examine the number and types of jobs that are available and the income that they produce.

In addition, the study would develop a method of monitoring the industry's growth and develop a method to follow trends in the ocean recreation industry, including an outline of the kinds of information and the frequency of data required, the probable costs of a monitoring system, and a proposed plan of implementation.

Your Committee expressed concern that some form of management must be developed for the industry. To this end, your Committee has amended line 15, page 2, to include management as an area of study.

Your Committee also discussed the possibility of making this appropriation to Sea Grant, as Sea Grant may have greater familiarity with the ocean recreation industry. However, your Committee has instead recommended that the Department of Planning and Economic Development consider working with Sea Grant in addition to TORCH.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1122, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1122, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 336 Ocean and Marine Resources on H.B. No. 586

The purpose of this bill is to permit the algal mass culture facility at Snug Harbor operated by the Hawaii Institute of Geophysics, University of Hawaii, to sell algae and deposit the proceeds into a revolving fund to support aquaculture research.

Though the Snug Harbor aquaculture facility is a research facility and therefore grows relatively small amounts of algae for experimental purposes, it still produces several hundred pounds of algae a week. For some time it has been experimenting with the production of ogo, a local seaweed used as a garnish in "poke", a very popular dish in Hawaii.

Recently too much ogo had been taken by harvesters, depleting the sources and necessitating restrictions on amounts that can be taken. Fishermen in turn became concerned that the limits on ogo harvesting would drive up the price and upset the market for aku, the fish usually used in "poke".

Since the Snug Harbor facility is currently restricted from selling any algae it produces, it was throwing away hundreds of pounds of a seaweed whose natural sources were being seriously depleted locally.

In testimony before your Committee the University of Hawaii noted this irony. They also noted that the research at Snug Harbor will be done on cold-water algae in connection with Ocean Thermal Energy Conversion in the future.

Your Committee learned that federal support of OTEC-related research is largely determined by the fluctuating price of oil, and current federal funding for Snug Harbor expires this February. Although the University expects to receive other grants for the fall, they noted that the sale of algal products would help finance research until then. Moreover, the small size of their facility and the fact that they will shortly be switching to cold-water algae, which are not grown or harvested in Hawaii, would alleviate conflict with the private sector here.

Your Committee also received testimony from the Department of Land and Natural Resources (DLNR) in support of this bill. The Department did observe: (1) that such an arrangement might create unfair competition with private growers and harvesters of algae; (2) that if the facility came to rely on the sale of by-products of its research it might confine its work to those species of algae most commercially viable rather than working with species only potentially valuable; and (3) that revolving fund expenditures for research are not subject to State oversight.

Hawaiian Marine Enterprises, a private aquacultural firm, echoed the concern about State-private enterprise conflict. However, during questioning, both the University and DLNR agreed with the suggestion of Hawaiian Marine Enterprises that the Snug Harbor facility be permitted to sell a limited amount of algae to avoid market conflicts with the private sector.

Your Committee made the following amendments to the bill:

- (a) Replacement of the word "limu" by the word "algae" on line 9;
- (b) Addition of the words "produced as a by-product of research" after the word "algae" on line 9; and
- (c) Addition of the sentence "The amount of algae sold shall not exceed two hundred pounds per week." after line 9.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 586, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 586, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 337 Ocean and Marine Resources on H.B. No. 1389

The purpose of this bill is to establish a demonstration state baitfish holding and live transfer facility in Hilo, Hawaii, which also shall be used for other fishery projects and activities. The facility may later be used by the University of Hawaii at Hilo as a marine laboratory.

\$125,000 is to be appropriated for fiscal year 1987-1988 and the same amount for the following three fiscal years for the planning, design, construction, and appurtenances for the baitfish holding and transfer facility.

The Department of Land and Natural Resources has been engaged in developing the tuna fishery on the island of Hawaii, using live baitfish from the Maui County live baitfish production facility. Recent difficulties on Maui have curtailed live baitfish supplies, creating a need for a baitfish facility.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1389 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 338 Ocean and Marine Resources on H.B. No. 540

The purpose of this bill is to establish a separate category of small watercraft known as "thrill craft," and to allow the Department of Transportation to create rules specifically regulating their use, maximum speeds, and minimum age for operators.

In addition, this bill would require that thrill craft operators be at least 15 years old.

Your Committee finds that due to the minimum size, strength, balance, coordination, and responsibility required to operate these small watercraft, and public concern over the use of small water craft by very young children, it has become necessary to create specific rules regarding their use.

The Department of Transportation testified that thrill craft operations have been the greatest source of complaints about conflicting uses of shore waters. Based on the present age requirements to obtain a driver's license, the Department of Transportation strongly supports a minimum age of 15 years old to operate small watercraft.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 540 and recommends that it pass Second Reading and be referred to the Committee on Transportation.

Signed by all members of the Committee.

SCRep. 339 Health on H.B. No. 1035 (Majority)

The purpose of this bill is to prohibit the surgery or treatment to induce abortion on a minor unless a parent or guardian are notified 48 hours before pending abortion. No notification shall be required if a physician believes that an abortion would be necessary to prevent the female minor's death or disability.

Your Committee heard testimony in favor of this bill based on parents' rights, the need for support from the family for a pregnant minor, and the need to encourage more communication between a minor and her parents.

Your Committee heard testimony in opposition to this bill based on fears that it would be unconstitutional, and that it might not always work to the benefit of the minor in question.

Your Committee finds that the law regarding abortion, which now does not allow for parental consent nor notification, is inconsistent with many other restrictions on minors. Abortion is a major medical procedure, and all other medical procedures now require parental consent. In addition, courts and legislatures have repeatedly restricted minors in areas such as drinking, the purchase of tobacco products, driving, and even in the decision to have one's ears pierced.

The United States Supreme Court stated in a 1982 case:

"the medical, emotional, and psychological consequences of an abortion are serious and can be lasting, this is particularly so when the patient is immature... It is cardinal with us that the custody, care and nurturing of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder... encouraging an unmarried pregnant minor to seek the advice of her parents in making the decision of whether to carry her child to term promotes a significant state interest in supporting the important role of the parent ... mere requirement of parental notice does not violate the constitutional rights of an immature, dependent minor.

Your Committee finds, however, that the proposed bill would not meet the constitutional test because it might under certain circumstances actually delay an abortion, which the court has ruled against.

Accordingly, your Committee has amended the bill to incorporate the language of a Utah State statute which was upheld, and which provides for certain circumstances when notification is not required.

Your Committee on Health is in accord with the intent and purpose of H.B. 1035, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1035, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Leong, M. Ige, Metcalf, Peters, Shito and Tom.
(Representative Hayes did not concur.)

SCRep. 340 Health on H.B. No. 1216

Your Committee on Health believes that community-based services are the a necessary adjunct to the health education, promotion and treatment services offered by the Department of Health.

This bill was designed to act as a vehicle for the purchase of certain services through the appropriate funding ID of the Department of Health. In most cases the funding was categorized as "undesignated" to allow for the Department to evaluate the appropriate agency on each of the counties to provide the described services.

Your Committee finds that these funds are not meant to duplicate those specific funds designated through an appropriation Act or budget proviso.

The bill was amended to include the description of services and the broad geographic areas where these services are to be designated.

Your Committee has amended the bill by eliminating the ID categories of HTH 121, Sexually Transmitted Diseases; HTH 511, Waimano Training School and Hospital; and HTH 807, Health Care Services. The category for HTH 907, General Administration was added. The funding totals for the community based services are:

	<u>FY 87-88</u>	<u>FY 88-89</u>
HTH 401 Community Based Services for Mental Health	\$1,170,000	\$970,000
HTH 500 Identification, Evaluation and Treatment for Developmentally Disabled	\$ 250,000	\$250,000
HTH 501 Community Based Services for Developmentally Disabled	\$ 840,000	\$840,000
HTH 907 General Administration	\$ 123,200	\$112,800

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1216, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1216, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Leong, M. Ige and Peters.

SCRep. 341 Agriculture on H.B. No. 1546

The purpose of this bill is to appropriate funds to evaluate and implement viable methods of converting sugarcane to high bulk flour thereby increasing the value per acre of harvested cane.

Your Committee finds that over the last ten years, International Flour Sales Corporation has perfected a process of converting sugarcane to high bulk flour, as well as constructed a large scale pilot plant capable of producing one ton of food grade flour per day.

Your Committee also finds that market research has revealed the potential demand for this product to be substantial as a low calorie fibrous bulk flour additive in the production of candies, baked goods, and many other uses.

Your Committee further finds that this by-product of the sugar industry is of potential benefit to the future survivability of this threatened industry. However, an endorsement from the Hawaiian sugar industry has been withheld pending the consideration of several major obstacles including Food and Drug Administration approval, marketing strategy in the United States or any foreign area, processing conditions, and capital investment in an economical plant for economy of scale.

Your Committee has amended the bill by adding a section designating the Department of Planning and Economic Development as the expending agency of the funds.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1546, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1546, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 342 Agriculture on H.B. No. 1465

The purpose of this bill is to allow the Department of Agriculture to transfer

funds between the agricultural loan revolving fund and the aquaculture loan revolving funds by amending Sections 155-14 and 219-4 of the Hawaii Revised Statutes.

Your Committee on Agriculture finds that allowing the Department of Agriculture to transfer funds between the two funds as the need arises will enable the Department of Agriculture to meet the objectives of both programs on a more timely basis. It will also permit more effective use of available funds.

Your Committee also finds that although future demand for aquaculture loans is difficult to predict, additional funds may be required if loan activity or anticipated loan volume exceeds available funds.

Your Committee further finds that greater access to financing is needed for the aquaculture industry since it is in its early stage of its development.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1465, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 343 Agriculture on H.B. No. 1425

The purpose of this bill is to establish a germ plasm repository laboratory for the maintenance, development, and improvement of crops that could be added to Hawaii's agricultural base.

Your Committee on Agriculture finds that the University of Hawaii at Manoa College of Tropical Agriculture and Human Resources, through a cooperative program with the United States Department of Agriculture-Agricultural Research Service, established a germ plasm repository in Waiakea, Hawaii, for a limited number of crops. This facility is one of several national repositories in a network established throughout the United States.

Your Committee also finds that the support of a state germ plasm repository laboratory would supplement and expand on the functions of the Waiakea facility to include other crops of importance to Hawaii.

Your Committee further finds that the main focus of a research program to serve the intent of this bill would center upon those crops with the greatest potential for Hawaiian production, and not currently covered by genetic improvement programs. The primary objective is to establish a germ plasm base and improvement program to fully exploit and consider new crops for Hawaii.

Your Committee has also amended Section 3 of the bill to designate the University of Hawaii at Manoa College of Tropical Agriculture and Human Resources as the expending agency rather than the Department of Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1425, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1425, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 344 Agriculture on H.B. No. 1293

The purpose of this bill is to appropriate \$100,000 for the promotion of Kona coffee.

Testimony supporting this measure was received from the state Department of Agriculture, the University of Hawaii College of Tropical Agriculture and Human Resources, the Kona Coffee Council, the Bong Brothers Coffee Company, the Captain Cook Coffee Company, and the Kona Farmers Cooperative.

Your Committee finds that to maintain its sales position and to improve its marketing position, the Kona coffee industry must promote its product.

Your Committee also finds that Hawaii's Kona coffee industry is consumer driven with these consumers being gourmet coffee drinkers who are willing to pay a premium price for a high quality specialty coffee.

Your Committee further finds that an increased demand for Kona coffee has encouraged Hawaii's coffee growers to rejuvenate old orchards and establish new plantings.

As received by this Committee, the amount to be appropriated by this measure was specified as \$100,000 for fiscal year 1987-1988. Your Committee, however, has amended this bill by designating that the Kona coffee industry provide a dollar-for-dollar match of this sum.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1293, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1293, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 345 Agriculture on H.B. No. 511

The purpose of this bill is to authorize the issuance of general obligation bonds and make an appropriation for an additional building to house a new hydro-cooler and ice machine at the Kula Vacuum Cooling Plant, Maui.

Your Committee finds that the addition of a new building with ice machines, a hydro-cooler and refrigerator, as well as improvements to the loading ramp of the existing building is estimated to cost \$425,000.

Your Committee also finds that due to the spotted wilt virus affecting the lettuce crops, production in Kula has been shifting to broccoli, corn, cucumbers, green peppers, and cauliflowers, most of which require pre-cooling. There currently exists a vast potential for the increased production of broccoli and cauliflower on Maui. However, one of the major constraints for production locally is the need to constraints for production locally is the need to chill them in post harvest handling to ensure a marketable product.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 511, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 346 Agriculture on H.B. No. 355

The purpose of this bill is to appropriate funds for fiscal year 1987-1988 for the biological control of webworms on Maui.

Your Committee finds that the webworm population is generally kept under effective biological control on all islands by beneficial parasitic insects. However, the occasional buildup of webworms occur in windward pasturelands on Maui due to strong, unpredictable wind conditions which hamper the attack on webworm eggs and larvae by the parasitic insects.

Your Committee also finds that less fragile parasites capable of withstanding strong wind conditions are needed to provide a more permanent, long-range control of the webworm on East Maui.

Your Committee further finds that the webworm is a major constraint for ranchers on Maui, especially to the full development of the pasture-based animal industries of the island and their potential to contribute to the economies of the state and the county.

As received by this Committee, the recommended appropriation was \$60,000 for fiscal year 1987-1988. Your Committee, however, has amended this appropriation to be \$60,000 to be divided into \$30,000 for each year of the 1987-1989 biennium.

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

No. 355, as amended herein, and recommends that it pass Second Reading in the form attached as H.B. No. 355, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 347 Agriculture on H.B. No. 543

The purpose of this bill is to appropriate funds for fiscal year 1987-1988 for design and construction of a new reefer room at the Kamuela Vacuum Cooling Plant.

Your Committee finds that the requested funds will be used to replace a smaller reefer installed in 1972 and presently in need of repairs.

Your Committee also finds that the proposed reefer will have twice the capacity of the present reefer and will enable the Kamuela Vacuum Cooperative to meet increased production projections and to cope with heavy storage requirements during the winter months when barge service is often disrupted. The Kamuela Vacuum Cooling Cooperative is a service cooperative which provides refrigeration services to all farmers in the Kamuela area of the Big Island.

Your Committee further finds that quality "island fresh" produce is dependent not only on proper cultural practices but also careful handling of the product from the field to the retailer. Also, with improved handling facilities, the potential for steady growth is increased.

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 \$250,000 for fiscal year 1987-1988.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 543, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 543, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 348 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 35

The purpose of this bill is to regulate the water resources of the State of Hawaii for the benefit of its people.

Article XI, Section 7 of the Constitution of the State of Hawaii mandates the State's obligation "to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people", and requires that:

"(t)he legislature shall provide for a water resources agency which, as provided by law, shall set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses; and establish procedures for regulating all uses of Hawaii's water resources."

Pursuant to this constitutional mandate, your Committee has carefully reviewed and considered the issues and policy concerns regarding water resources management and regulation.

Your Committee finds that because available fresh water on our islands is limited, our very existence depends on its careful management. Judicious use of this essential resource will promote the most efficient use of our lands and help insure continuation of our high quality of life.

To ensure that the availability of this precious resource will meet the present and future needs of the people, your Committee is of the opinion that the water code should serve as a tool and an incentive for planning the wise use of Hawaii's water resources, rather than as a water crisis and shortage management mecha-

nism. Your Committee believes that the State's ability to meet its economic development and environmental protection goals and objectives rests on the long-term availability of sustainable quantities of high quality water supplies throughout the State. As mandated by the Constitutional Convention of 1978, a system of water management is needed to assure the availability of water. Your Committee recognizes that effective management of our water resources will optimize the wise use, development, availability, and conservation of our water resources for the maximum benefits of all of Hawaii's people.

Many citizens and organizations representing a cross section of our community presented testimony on this measure. Your Committee appreciated the many and sometimes conflicting views that were expressed.

In addition, your Committee acknowledges with appreciation the contributions of the many people who volunteered their time and expertise in developing the Hawaii Water Code. While many people have worked long and hard on this project, your Committee would like to cite in particular the efforts of two groups. The first is the Advisory Study Commission on Water Resources, established by Act 170, Session Laws of Hawaii 1982, which conducted a comprehensive review of the various issues relating to Hawaii's water resources. Their work was the basis for H.B. No. 35, as originally received by your Committee. The second is the Water Code Roundtable, a group of interested citizens with diverse and informed views of the various applications of a water code. The Roundtable provided the Committee with a better understanding of the different philosophical perspectives on water and water management issues.

Upon further consideration, your Committee has made the following major revisions to this measure:

- (1) Creates an independent full-time, five-member board to administer the Hawaii water code;
- (2) Provides for an executive director to implement the Hawaii water code;
- (3) Ensures that provisions of this chapter shall not be construed to amend or modify rights or entitlements to water as provided for by the Hawaiian Homes Commission Act, 1920, as amended, or by Chapter 175 relating to the Molokai irrigation system;
- (4) Ensures that the traditional and customary rights of ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 shall not be abridged, revoked, diminished or denied by any provision of this chapter;
- (5) Adds a new part to the chapter, requiring reports on water use;
- (6) Provides for a more comprehensive water plan which consists of a water resource protection and quality plan to be prepared by the water resources board; water use and development plans for each county to be prepared by each separate county and adopted by ordinance; and a state water project plan to be prepared by the agency with jurisdiction over such projects;
- (7) Maintains the mandatory permit process for water resource management areas and adds a voluntary permit process for other areas;
- (8) Restates the Department of Health's responsibility for the water quality program;
- (9) Adds a new part on instream uses;
- (10) Creates a review commission on the Hawaii water code;
- (11) Encourages the use of mediation methods where practicable; and
- (12) Retitles the code to "Hawaii Water Code".

In addition, your Committee has also made other minor substantive amendments throughout the bill. Your Committee has not made any specific recommendation on the level of funding, deferring to the Committee on Finance to provide the appropriate level of funding.

Your Committee has made other technical amendments 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. 35, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 35, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 349 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1414

The purpose of this bill is to appropriate \$1,500,000 for the establishment of a revolving loan fund to assist small businesses on Molokai, to be administered by the County of Maui.

Your Committee notes that there is a depressed economic situation on Molokai and that a special loan program may be warranted. Your Committee has received testimony from three agencies or organizations in support of a Revolving Loan Fund for Molokai. The Director of Planning and Economic Development testified in favor of the bill and suggested that a liberal underwriting policy be followed in the conduct of the program, perhaps patterned after the existing Molokai Task Force loan program rather than the more stringent procedures of the Hawaii Capital Loan Program. The Mayor of the Maui County supported the bill and recommended that it be amended to provide that the fund would be administered by the Department of Planning and Economic Development since that agency had the personnel and expertise to administer such a program, but with a provision for County input in decision-making. There were further suggestions to specify certain conditions of loans to be granted under this program, and to provide for periodic reporting. The Chair of the Molokai Task Force also offered supportive testimony.

Your Committee has amended the bill to reduce the amount appropriated from \$1,500,000 to \$750,000; to provide that the fund shall be administered by the Department of Planning and Economic Development with reimbursement from the fund for administrative costs; to set the maximum amount, term, and interest rate of loans from the fund; to authorize the Director of Planning and Economic Development to defer principal and interest payments for up to two years; and to establish reporting requirements. Your Committee has made technical, nonsubstantive changes to the bill by renumbering Sections 3 and 4 accordingly.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1414, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1414, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and D. Ige.

SCRep. 350 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1295

The purpose of this bill is to make an appropriation to enable the Department of Land and Natural Resources to acquire public trail access to landlocked state-owned parcels.

Your Committee heard testimony that public access to many state owned forest areas is either extremely limited or non-existent. Forest access problems have increased sharply in the past few years, because land owners are concerned with liability and vandalism.

The Hawaiian Trail and Mountain Club testified that the number of trails they can use has declined sharply, particularly on Oahu. They also stated that hiking is becoming an increasingly popular activity with over 2000 people a year participating in their hikes.

The Leeward Bow Hunters Association emphasized the importance of hunter access to control pig population. Where access is lacking, animal populations

build to the point where severe damage is done to the forest vegetation and watershed.

The Department of Land and Natural Resources testified they have an inventory of 130 trail rights-of-way that need to be acquired. They also asked that the money be made available throughout the biennium, because of the time required to survey, appraise and negotiate a purchase.

Your Committee agrees more trail access is needed. However, there is concern that DLNR first press for existing rights-of-way which may have been abandoned in the past. DLNR should be sure it does not buy rights-of-way where the State may already have one. Moreover, the Attorney General should be consulted, since it is believed that there is no such thing in Hawaii as a land-locked parcel without access.

Therefore, your Committee has added a new Section 4 to assure that the State does not purchase rights of way which have been improperly cut off by private parties. According to testimony, 37 trails were removed from the maps of Oahu between 1968-1979. Some of these may have truly been private trails which the land owner had a right to close off, but others may have involved a failure of adequate vigilance on the part of the State to protect public rights of access.

Your Committee feels that a thorough evaluation of those 37 trails which were dropped from the maps will give an indication of whether there has been due vigilance over the years and will indicate whether further action needs to be taken with respect to both the 37 trails in question and others which have "vanished" over the years on all islands.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 1295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1295, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 351 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 578

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$20,000,000 to assist Island Power Company in constructing and operating a hydroelectric power plant and related facilities on the Honolii Stream in Hawaii County.

Your Committee finds that the residents of Hawaii County are dependent primarily on oil-fired and bagasse generation of energy supplied by HELCO. 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 Honolii hydroelectric development project could help Hawaii County and its people to move toward the goal of energy self-sufficiency.

Your Committee is also cognizant of the economic potential of the project in as much 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. 578 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 352 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 574

The purpose of this bill is to require that when recording lots in a subdivision the metes and bounds description and plat map accurately describe the lot in question. The bill proposes to accomplish this by requiring that the appropriate officer, agency, or agencies approve the descriptions in like manner as subdivisions under applicable laws, prior to recordation.

The bill addresses the situation where properties have apparently been subdivided or consolidated and recorded with the Bureau of Conveyances without receiving the necessary county subdivision approvals. Problems may arise when these "illegally" created lots or parcels are sold and the purchasers later discover that they are unable to receive building permits.

Section 502-17 (c) is explicit in requiring that file plans be approved for subdivision in accordance with applicable subdivision laws. The problem appears to be in the recording of transfer or separate description documents. Presently, these documents may be recorded without prior county approvals, provided such documents meet the Bureau's size, format and identification requirements. These documents generally are not accompanied by a plan or map of the proposed transfer. Often time, these written descriptions are then translated on the tax map. The tax map branch does not check to ascertain county authorization of the parcels or lots.

Presently there may be thousands of illegal lots which do not conform to the subdivision standards. This measure may help to identify them so that they can be cleaned up either by "grandfathering" them or on a case by case basis. It is not the intent of this measure to create any hardship on individuals or to impose this restriction on every single transaction filed for recordation. It is our intent that this be limited to lots which are subdivided.

Your Committee finds that as the bill is now written it could create an undue workload for the respective agencies if they were required to stop and do all of the verification themselves. Therefore, we have amended section (d) of the bill to provide that the certification be done by the party's private surveyor before filing for recordation.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 574, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 574, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, D. Ige and Tajiri.

SCRep. 353 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1601 (Majority)

The purpose of this bill is to allow the Board of Land and Natural Resources to waive any restriction contained in any lease for commercial, hotel, resort, or industrial use of public land.

The Board of Land and Natural Resources currently has authority to amend the specific use of a commercial or industrial lease to another or additional specific commercial or industrial use. This bill, as received by your Committee, would expand the Board's authority to waive restrictions or amend the use contained in a lease for commercial, hotel, resort or industrial use of a public land.

Testimony in favor of this measure was received from the Office of the Mayor of Kauai, the Planning Department of the County of Kauai, and Kauai Resort Hotel.

However, your Committee believes that the bill as originally received by your Committee would establish a potentially harmful public policy and agrees with the objections raised by the Sierra Club, who testified against this measure.

Your Committee finds that one of the State's objectives is to promote proper public land management in order to maintain and enhance the quality of existing and future hotels and resort destination areas and to encourage greater cooperation between the public and private sectors in developing and maintaining well-designed and adequately serviced visitor destination sites. Your Committee also recognizes possible situations where the Land Board should have the flexibility in managing its public lands to meet changing times and conditions in the community.

Upon further consideration, your Committee has amended the bill to address the original concerns of your Committee and the criticism raised by Sierra Club by providing that:

- (1) The lease in question must have been in effect for twenty years or more;

At the time of the purchase by the hui (1881), nearly a hundred families were involved. A wealthy part-Hawaiian, Mary E. Foster, bought up most of the hui shares by 1917, but granted varying forms of tenure to the families who wished to remain in the valley.

It was the estate of Mrs. Foster which sold the valley to the State of Hawai'i, under eminent domain proceedings, in the late 1960's. By purchasing the valley, the State inherited some two-dozen tenant families, nearly all of whom traced their roots back to the Mahele or the hui. Much like the Maunalaha and Miloli'i cases, the State now found itself involved with inherited tenants with moral, historical, and (sometimes) legal claims.

The Kahana case was complicated by the factor that public funds had been utilized to purchase Mrs. Foster's interest for the purpose of using the ahupua'a as a park. In 1971, and several times since, the Legislature and the Board of Land and Natural Resources (BLNR) have addressed these factors by calling for a cultural living park which would allow tenants to remain in the valley if they were willing and able to participate in the park's planned cultural and educational programs.

Following a series of studies, BLNR in 1974 approved a park development plan which called for \$14,000,000 in capital improvements and a full-time staff of 70. Budget realities almost immediately required a reassessment of this plan. An edited version in 1979 was revised further by a BLNR-appointed Kahana Study Committee in 1981, and by the BLNR-appointed Kahana Advisory Council since 1984.

The final development plan, adopted by BLNR in January 1986, called for the bulk of park programs to be carried out on an unpaid part-time basis by park residents, who would receive long-term leases within the valley in return. This was clarified by an Attorney General's opinion in August 1986, which called for specific legislation as well as related requirements. This AG's opinion, in turn, led to H.B. 1494.

The bill calls for the Department of Land and Natural Resources (DLNR) to establish precise statements of the park programs listed in the development plan. Resident families would then have precise duties assigned to them based on these program statements. Each family would have to be ready and able to play an intimate role in the carrying out of such program plans.

DLNR would then have to work out a precise system to monitor the participation by those families wishing to participate. An accompanying enforcement mechanism would also be established by DLNR. Contracts to carry out their duties would be executed with each participating family. Long-term direct leases would then be available to be awarded to such participating families.

BLNR, together with the Kahana Advisory Council, has ascertained which families qualify for participation in this program.

The proposed bill is substantially based on the Maunalaha and Miloli'i Acts. It provides discretion to BLNR in its implementation. It is understood, for example, that many of the current residents who qualify for participation will have to relocate within the valley. BLNR is allowed flexibility in resiting these future park participants.

Your Committee received copies of the Kahana Development Plan and the AG's opinion on the proposed park. Written and oral testimony, largely positive, was also received.

Two specific concerns were noted by several testifiers. First was the matter of successorship. The residents currently are on revocable permits which are cancelled upon the death of the permittee. Successorship has therefore been a concern for such permittees. This bill, however, envisions the issuance of leases which are not cancelled upon the death of the lessee but passes down to an heir as provided for in other State law. A DLNR representative also indicated to your Committee that the Department plans to write into the leases a provision for the advance naming of successors, and a restriction on successors to heirs who have continuously resided in the valley since the date of the awarding of the lease.

Your Committee also notes that neither the Maunalaha or Miloli'i Acts required successor clauses. Your Committee concludes that successorship is not an issue

requiring specific treatment in the bill.

The second matter of concern involves what areas of the residential development shall be the responsibility of the tenants. Several persons testified, and your Committee confirms, that the development plan calls for residents' responsibility to include construction of their own homes but not any infrastructure costs incurred because of their relocation within the valley.

The bill as originally written would place infrastructure costs on the residents. Your Committee asked for DLNR to study this matter further, and the Chair of the BLNR has met with advisors and reports that the bill should indeed be clarified by deletion of the residents' responsibility for infrastructure.

Your Committee has therefore amended Section 5 of the bill to read, in applicable part, as follows: "... and provided further that no state funds shall be expended for the construction of the residences authorized under the provisions of this Act."

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 1494, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1494, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.

SCRep. 356 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1835

The purpose of this bill is to appropriate \$9.8 million for fiscal year 1987-1989, for the acquisition of private Kohala Ditch Watershed land and rights of way.

This acquisition will allow the consolidation of North Kohala watershed lands under state ownership, making the land available for public use and allowing the State to rehabilitate Kohala Ditch.

Your Committee has amended the bill, at the suggestion of the Department of Land and Natural Resources, to appropriate \$4.9 million for the 1987-1989 fiscal biennium. The Department will seek the balance of the original \$9 million in the ensuing fiscal biennium, 1989-1991.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 1835, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1835, H.D. 1, and be referred to your Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda, D. Ige and Tajiri.

SCRep. 357 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1005

The purpose of this bill is to subject the Office of Hawaiian Affairs' budget to the review process imposed on other departments of the state through the Department of Budget and Finance.

Your Committee finds that the submittal of the Office of Hawaiian Affairs' budget directly to the legislature leaves the legislature without the ability to adequately review the various proposals. In contrast, the independent evaluation imposed on other government departments through the Budget and Finance process allows for some consistency among departments with respect to workload, equipment purchases, etc., which is extremely valuable at the time of legislative deliberations. Budget which are prepared by the executive branch over several months must be evaluated by the legislature in a matter of weeks. Receiving budget documents which have not received an independent critical review can result in ineffective oversight by the legislative branch as well as concern and frustration in the community. The extraordinary increase in requested funding by the Office of Hawaiian Affairs for the 1987-89 biennium is an example of what happens when there is an ability to avoid the independent review process.

Although the increase might be justified, the legislature must be skeptical and the final result may well be detrimental both to the general government process and, ironically, to OHA, which may actually receive less funding authorization than it would if its proposal had the "seal of approval" which an independent review affords.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1005, 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 Andrews, D. Ige and Tajiri.

SCRep. 358 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 635

The purpose of this bill is to fund state and county programs to promote Hawaii as a place to do business and to promote export of Hawaii products and services. One million dollars (\$1,000,000) would be spent by the State DPED and \$1,000,000 by the counties.

Your Committee supports the purposes of this bill, but finds the request for \$1,000,000 for DPED is duplicated in the Governor's budget and believes the increase from this year's appropriation for the counties of \$350,000 to \$1,000,000 would be unwarranted.

Your Committee has amended this bill by deleting the \$1,000,000 duplicate appropriation to DPED and by providing \$500,000 to be divided among the four counties. Your Committee expects the allocation to be similar to this year in which Oahu received 40% of the total and the neighbor island organizations received 20% each.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 635, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 635, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 359 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 748 (Majority)

The purpose of this bill is to appropriate funds for the purchase of Waipio Valley on the Big Island.

Your Committee received testimony in support of this bill from Bishop Museum, and received a letter from the Department of Land and Natural Resources indicating that an appraisal would be ready in approximately ninety days. Following acceptance of the appraiser's report, the Department will then be in a position to proceed with the acquisition.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the purpose and intent of H.B. No. 748 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.
(Representatives Bunda, Kanoho, Isbell, O'Kieffe and Pfeil did not concur.)

SCRep. 360 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1924

The purpose of this bill is to provide funds for necessary improvements to the Richards Street YWCA.

Your Committee received testimony in support of this bill from the YWCA indicating that emergency repairs to the roof are desirable if further damage is to be avoided to this state historic site.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 1924 and recommends that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 361 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1080

The purpose of this bill is to make funds in the firefighter's contingency fund immediately available to the commander in charge of a fire, so that action may be taken as quickly as possible to minimize losses attributed to fire.

At the present time, the firefighter's contingency fund is under the control of the Department of Land and Natural Resources (DLNR). The DLNR is responsible for fighting fires on State-owned land and private land within forest reserves. County fire departments are responsible for fires on private lands outside the forest reserves, though they may receive assistance when needed from the DLNR.

The State Fire Council testified in favor of the bill, noting that the county fire departments are primarily equipped for urban firefighting, not for wildland fires in rough terrain, as the equipment needed to fight such fires, such as bulldozers, helicopters and water tankers, must be rented. Currently funds for such rentals may come from the DLNR's firefighter's contingency fund, but the notification and request process to which counties must adhere can create harmful delays.

Your Committee received testimony from the Conservation Council of Hawaii observing that a recent fire destroyed a large portion of native dry forest, in part due to a long delay between the initial response to the fire and the arrival of the necessary equipment.

The DLNR testified against the bill as they feared that allowing county fire departments direct access to the fund might deplete the necessary funds for fighting fires occurring on State lands. However under questioning it was noted that the DLNR currently expends funds to help the counties fight fires outside of the State reserves. In fact the DLNR estimated that 90% of the expenditures from the firefighter's contingency fund are applied to such fires. And as a result, the DLNR suggested that the fund be transferred to the State Fire Council. This suggestion was accepted, as the language of the bill makes clear that any agency, including the DLNR, may draw funds without delay.

Your Committee has amended Section 2 of the bill by deleting the words "department of land and natural resources" and inserting "state fire council" on page 1, line 14. Your Committee has further amended this bill to correct non-substantive technical drafting errors.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1080, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1080, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and D. Ige.

SCRep. 362 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1871 (Majority)

The purpose of this bill is to appropriate funds for a baseline ecosystem study of the Hanalei River estuary and other North Shore Rivers on Kauai.

The Department of Land and Natural Resources testified that its 1987-1989 Operating Budget requests contains line items for baseline stream ecosystem surveys and native fresh water species studies. It also stated that baseline surveys of the State's bays and estuaries are being conducted under federal aid projects.

However, your Committee also received testimony that the inclusion of line items in the Operating Budget requests does not necessarily ensure that the Hanalei

River and other Kauai North Shore rivers would be included in these surveys or studies.

Your Committee finds that the establishment of baseline data on these estuary systems is necessary for informed estuary management and to anticipate biotic responses to ongoing and proposed activity for the Hanalei River and other North Shore river estuaries, and has therefore determined that specific earmarking of State funds is necessary in order to initiate a baseline ecosystem study.

Your Committee has amended the bill to address the following areas of concern: (1) development of methods to identify breeding streams and estuaries in a sample of streams and estuaries on Kauai's North Shore; (2) reconnaissance surveys of North Kauai estuaries involving systematic observation of fish population sizes found in samples of North Shore estuaries; (3) evaluation of methods determining Native Hawaiian stream fish population sizes; and (4) comparative sediment testing of the Wainiha, Lumahai, Hanalei and Wailua River estuaries and boat launching areas for analysis of impact of heavy metals and organic toxic materials, including photograph records and turbidity measurements.

Your Committee notes for the record that this measure, as amended, shall not be construed as any legislative intent or position on any current proposals relating to user activities of Hanalei River estuary and other North Shore rivers on Kauai.

Your Committee also amended this bill to include a \$1 appropriation. Other stylistic amendments were also made to the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1871, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1871, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.
(Representative Say did not concur.)

SCRep. 363 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1936

The purpose of this bill is to provide for the planning, design and construction of the Waikiki War Memorial Natatorium restoration through the authorization of general obligation bonds.

The Natatorium was dedicated in 1927 as a memorial to the veterans of World War I. It has since become an integral part of Hawaii's aquatic history and is listed in both the Hawaii and National Registers of Historic Places. Unfortunately, through the passage of time this Memorial has deteriorated due to the toll of natural elements and the lack of proper maintenance.

Testifying in support of this measure were the Association of Hawaiian Civic Clubs and Friends of the Natatorium. The Department of Land and Natural Resources also felt the Legislature should address the issue of funding the operation and maintenance of the Natatorium if full restoration were to be pursued. The City and County of Honolulu indicated it was willing to take over the maintenance after restoration.

Your Committee finds that, in accordance with the State constitution, it is in the public interest for all levels of government to engage in historic preservation for the enrichment of its citizens and to provide the necessary leadership in preserving, restoring and maintaining historic and cultural property for stewardship and trusteeship of future generations.

Your Committee has made nonsubstantive and stylistic amendments to the bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1936, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1936, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 364 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1409

Your Committee finds that Hawaii has numerous advantages as a telemarketing center. Our favorable time differential is an obvious, but often overlooked, advantage. Also, most potential operators are not familiar with our highly sophisticated telecommunications infrastructure.

Telemarketing can be anything from the old fashioned "boiler room" telephone operation to highly sophisticated computerized catalog operations. It can also include telephone call-in activities for client service. All these activities can be carried out in Hawaii utilizing "night rates" while calling the mainland during business hours. We also have an advantage in communicating with Asia, because they are just starting their next business day when we are having lunch.

Your Committee believes this promotion can attract many businesses and create many jobs in a relatively short time.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1409 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 365 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1138 (Majority)

The purpose of this bill as received by your Committee is to establish powers and duties of the Board of Land and Natural Resources with respect to dam safety. This bill provides for the inspection and regulation of construction, operation, and removal of certain dams in order to protect the health, safety and welfare of the citizens of the State by reducing the risk of failure of such dams. This bill would establish a dam safety inspection program in Hawaii.

Your Committee finds that the inspection and regulation of construction, operation, and removal of certain dams are properly a matter of regulation under the police powers of the State.

Your Committee received testimony from the State Department of Land and Natural Resources stating that "the State of Hawaii is one of only three remaining States that does not have dam safety legislation to protect its communities." In that testimony, the Department of Land and Natural Resources supported the adoption of H.B. No. 1138.

Your Committee also received testimony against the bill from HSPA, which expressed concern that the requirements imposed by H.B. No. 1138 could result in tremendous expense. However, your Committee notes that the bill simply authorizes the DLNR to administer a dam safety program after adopting rules pursuant to Chapter 91, and your Committee is confident that HSPA's concerns will be addressed administratively. HSPA also raises a question about liability under the Act, but your Committee believes that the act neither increases nor decreases the potential liability of the respective parties.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1138 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.
(Representative Say did not concur.)

SCRep. 366 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1412

The purpose of this bill is to provide an appropriation to expand the Neal Blaisdell Center.

Your Committee finds that the Blaisdell Center is an ideal location for local events. It has served for 25 years without improvement and is suffering from inadequate parking and exhibition/convention space.

The City and County of Honolulu plans to double available parking, air-condition and double the size of the exhibition hall, increase the number of available meeting rooms, improve banquet and kitchen facilities, and provide additional storage space. The City and County is appropriating \$9,340,000 and is requesting State matching funds in the amount of \$13,175,000.

Your Committee finds the Neal Blaisdell Center is a vital community asset which is badly in need of improvement to best serve the community. Because the Blaisdell Center is designed to serve local functions, it will not duplicate services provided by the proposed convention center.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1412 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 367 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1766

The purpose of this bill is to establish an Economic Advisory Council to provide assistance to the legislature on matters affecting economic development and government revenues and taxes.

Your Committee believes that such a council would greatly enhance the legislature's ability to evaluate economic proposals, complex tax and revenue issues, and to generally promote the economic well-being of this State.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1766, 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 Andrews, Bunda, Hashimoto, Honda, D. Ige and Tajiri.

SCRep. 368 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1923

The purpose of this bill is to provide funds for the planning, design and construction of a new irrigation system at the East Waioli River on the island of Kauai.

The Department of Land and Natural Resources supported the intent of this measure.

Your Committee finds that the Department in the past has provided emergency repair on breakdowns in the East Waioli River irrigation system following heavy storms. While this has proven effective on a short-term basis, this has not allayed the real insecurities and financial risks of the Hanalei taro farmers who are totally dependent upon the system for their livelihood.

Your Committee concurs that adequate funds are necessary for a new irrigation system at East Waioli River with a stronger guarantee of functioning at all times, thereby ensuring the livelihood of Hanalei taro farmers despite inclement weather.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1923 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 369 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1481

The purpose of H.B. No. 1481, an administration bill, is to repeal Act 112, Session Laws of Hawaii, 1981, and to revise the manner by which the Department of Hawaiian Home Lands ("Department") is to handle payment of the net proceeds whenever a homestead lease is surrendered, cancelled, or terminated. Another

purpose is to clarify the language of Section 209 of the Hawaiian Homes Commission Act because of the changes that have been made to that section at various times.

Your Committee finds Act 112, SLH 1981, has inconsistencies which make implementation of the Act impossible.

H.B. 1481 would repeal Act 112, SLH 1981, thereby removing the inconsistencies. More importantly, it would modify the method of handling the payment of proceeds for the value of the leasehold interest when a homestead lease is surrendered, cancelled, or terminated. The major change proposed is to allow the Department to use the Hawaiian Home General Loan Fund to pay the net proceeds on a cancellation, termination, or surrender of lease if the Hawaiian Home Loan Fund does not have available cash to make such payments.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1481 and recommends that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 370 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1740

The purpose of this bill is to provide an exemption from prior approval by the Governor and Legislature for easements on submerged lands that are used for piers, moorings, seawalls, cables, pipelines, and other similar uses.

Testimony in support of the bill was provided by the Departments of Land and Natural Resources, Transportation, and Planning and Economic Development, Hawaiian Independent Refinery Inc. (HIRI) and the Hawaii Chapter of the Sierra Club.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the purpose and intent of H.B. 1740 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 371 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 802 (Majority)

Your Committee finds that Palmyra, strategically located 960 miles south of Hawaii, offers a wealth of opportunities to the State. Refueling and servicing large commercial fishing vessels, rocket launchings, ocean mining, sports fishing, and aquaculture industries are some of the activities that have been suggested for this site.

In addition, your Committee believes that the potential resources of the territorial waters and seabed around Palmyra over which our State might gain jurisdiction makes it an even more valuable addition to the State. Accordingly, it is the judgment of your Committee that State acquisition of Palmyra is in the public interest.

Your Committee has amended this bill to clarify that acquisition of Palmyra will not necessarily result in expansion of the State's territorial jurisdiction. Your Committee has not made any specific recommendation on the amount of funding, deferring to the Committee on Finance to provide the appropriate level.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 802, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 802, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.
(Representative Isbell did not concur.)

SCRep. 372 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1403

The purpose of this bill is to provide a \$200,000 grant-in-aid to the Pacific and Asian Affairs Council (PAAC) to develop programs to increase public knowledge of current foreign policy issues with particular emphasis on the Asia/Pacific region.

Your Committee received testimony in support of the bill. The PAAC testimony elaborated upon the objectives and activities of the proposed grant-in-aid. It is PAAC's intention to plan, sponsor, and conduct three international programs, in cooperation with the State of Hawaii, to enhance Hawaii's role in Pacific Basin business, investment and trade in three areas: the ASEAN region (including Indonesia, Malaysia, Philippines, Singapore, and Thailand), the former Trust Territory of the Pacific Islands (including the Federated States of Micronesia, the Republic of the Marshalls, and the Republic of Belau), and The People's Republic of China. PAAC also plans to provide Hawaii's government and business with specific information on ways to undertake such business activities, and to develop a knowledgeable public and private sector constituency in Hawaii regarding Hawaii's role in Pacific Basin business, trade, and investment.

Your Committee is of the opinion that the proposed PAAC programs, as described above, would make available critically desirable opportunities for Hawaii's public and private sectors to become more involved in international business, trade, and investment with Hawaii's Asian and Pacific neighbors. PAAC could become a catalyst in assisting Hawaii's people to formulate and implement major economic development projects in which Hawaii's government and businesses would play leading roles.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1403 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 373 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 785

The purpose of this bill is to exempt research and development activities from the imposition of the general excise tax. More specifically, this bill would exempt the gross proceeds received by a taxpayer from another taxpayer under a contract and arising from the qualified research expenses, base period research expenses, and research and experimental expenditures of the other taxpayer.

Your Committee finds that research and development activities are critical phases in the development of new products and services. Your Committee recognizes Hawaii's potential to become the center of exciting technological advances in the Pacific. However, in order to achieve this goal, your Committee believes that Hawaii must be able to compete with those states, such as California, which do not tax research and development costs, in attracting the needed capital to finance such activities. It is the finding of your Committee that this bill will provide the needed incentive to attract more research and development activities to Hawaii and to encourage existing companies to undertake more qualified research activities.

Representatives from the High Technology Development Corporation, the Hawaii Island Economic Development Board, the Economic Development Corporation of Honolulu, and the Economic Development Council of the Chamber of Commerce testified in favor of this measure.

Your Committee also recognizes the objections raised by the Department of Taxation and the Tax Foundation of Hawaii. To address such concerns, your Committee has amended the bill as follows:

- (1) by adding the phrase "any provision of law to the contrary notwithstanding," in subsection (a);
- (2) by adding a new subsection (b) to correct the potential problem of double exemptions; and
- (3) by adding a new subsection (c) to prohibit possible claims for additional exemption for scientific work, including research and development costs allowable under Section 237-26.

Your Committee has also changed the effective date to July 1, 1987. Other technical, nonsubstantive amendments were made to the bill for 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. 785, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 374 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1776

The purpose of this bill is to authorize the Department of Land and Natural Resources to negotiate long-term leases with certain occupants of State agricultural lands to enable them to improve and utilize the land more productively, thereby contributing to the State's economy.

Your Committee finds that the express intent of this Act is that public lands used for aquaculture, sugarcane, pineapple, dairy, ranching, and other pasture uses are to be excluded from authorization granted the Department of Land and Natural Resources.

Following the recommendation of the Department of Land and Natural Resources at the hearing of the bill, your Committee amended this bill as follows:

(1) Add to Section 1 that the Legislature finds that one of the primary objectives for agriculture of the Hawaii State plan is the continued growth and development of diversified agriculture throughout the State, and achievement of productive agricultural use of lands most suitable and needed for agriculture is an objective of the State agriculture functional plan. The Legislature further finds that certain permittees and lessees of State agricultural lands are constrained by their uncertain tenure on the land from using the land more productively.

The purpose of this Act is to authorize the Department of Land and Natural Resources to negotiate long-term leases with certain occupants of State agricultural lands to enable them to improve and utilize the land more productively, thereby contributing to the State's economy.

It is the express intent of this Act that public lands used for aquaculture, sugarcane, pineapple, dairy, ranching, and other pasture uses are to be excluded from the authorization granted the Department of Land and Natural Resources by this Act.

SECTION 2. The Department of Land and Natural Resources may negotiate and enter into agricultural leases of not less than fifteen years nor more than thirty-five years with persons who meet the following criteria:

(1) (A) Are lessees with less than ten years remaining on their leases, permittees, or holdover tenants of State land who are engaged in intensive farming; (B) Are farmers within the meaning of Section 171-14.5(b), Hawaii Revised Statutes; and, (C) have occupied the land continuously for at least five years as of the effective date of this Act;

(2) Persons who are dependent upon the State land for at least fifty per cent of their total annual income for the last two tax years; and

(3) Any person who, or whose spouse, or both, do not own agricultural land in the State.

SECTION 3. The lands eligible for lease negotiation under Section 2 of this Act are limited to those lands that the Department of Land and Natural Resources, in coordination with the Department of Agriculture, determines to be:

(1) Suitable for intensive farming;

(2) Economic units, as determined pursuant to Section 171-33(3), Hawaii Revised Statutes; and

- (3) Not needed by any state or county agency for any other public purpose.

Within one hundred and eighty days from the effective date of this Act, the Department of Land and Natural Resources shall notify in writing the lessee, permittee, or holdover tenant of lands eligible for lease negotiation. Any lessee, permittee, or tenant of lands eligible for lease negotiation may request negotiation of a lease, provided that any request shall be submitted to the Department of Land and Natural Resources in writing no later than one year from the effective date of this Act; and provided further that the Department may require documentary proof of any applicant to determine that the applicant meets the criteria of Section 2 of this Act.

SECTION 4. Notwithstanding any other law to the contrary, including Chapter 171, Hawaii Revised Statutes, the Department of Land and Natural Resources is authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act; provided that, the Department impose such terms and conditions it deems necessary, including any or all provisions and restrictions of Sections 171-35, 171-36, and 171-37 of Hawaii Revised Statutes and provisions to prevent speculation. The authorization granted the Department by this Act shall expire when leases have been negotiated and recorded in the Bureau of Conveyances for all parcels applied for pursuant to Section 3 of this Act, or on January 1, 1989, whichever occurs first.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1776, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1776, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda, D. Ige and Tajiri.

SCRep. 375 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1836

The purpose of this bill is to provide affordable housing to the future workers of the planned resort on the south Kohala coast.

These housing projects are the beginning of community development on the south Kohala coast. Financial assistance by the State to provide the infrastructure for these housing developments would ensure that these homes would be affordable since the homeowners would not have to bear the added costs, and would benefit the people of Hawaii who would utilize these facilities.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.B. No. 1836 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 376 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1016

The purpose of this bill is to amend Chapter 201, Hawaii Revised Statutes, to establish overseas economic development offices in the Department of Planning and Economic Development. The offices would encourage businesses to establish regional headquarters in Hawaii, to expand marketing opportunities, and to promote export trade which are fundamental to a healthy economy.

Hawaii's unique location at the midpoint of the Pacific Basin is a prime factor in expanding its role in international trade and business.

Your Committee on Water, Land Use, Development and Hawaiian Affairs finds that the establishment of overseas economic development offices to promote the relocation of businesses to Hawaii and the establishment of regional branch offices in Hawaii by enterprises headquartered elsewhere will strengthen and diversify Hawaii's economic base. Your Committee also finds that providing information on business opportunities in Hawaii and providing a referral service to bring together Hawaii's business people with prospective overseas businesses will promote many opportunities and expand the role of our State in international trade.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1016 and recommends that it pass Second Reading and be referred to your Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 377 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1502

The purpose of this Act is to increase the maximum amount of a loan under the capital loan program to \$1,000,000.

Your Committee finds the present loan limit of \$250,000 prevents the Department of Planning and Economic Development (DPED) from helping a company which is attempting to finance an expansion requiring more than \$500,000. It is difficult to interest banks and venture capitalists in projects of less than five million dollars. This creates a serious problem for businesses which need more than half a million dollars in order to expand their businesses, but which are not in the five million dollar category. This situation faces many rapidly growing high tech firms.

Your Committee finds that by increasing the maximum amount of a loan to \$1,000,000, DPED will be able to leverage a \$5,000,000 financial package. This flexibility is needed to attract high tech companies to Hawaii.

Your Committee has amended the bill for style and clarity.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 1502, as amended herein, and recommends it pass Second Reading in the form attached hereto as H.B. No. 1502, H.D. 1, and be referred to your Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.

SCRep. 378 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1129 (Majority)

The purpose of this bill is to provide an appropriation for the purchase of Moku O Loe Island (Coconut Island) for use by the University of Hawaii, Institute of Marine Biology.

Your Committee finds Moku O Loe is now being offered for sale and three separate private interests are reportedly considering acquisition. The University of Hawaii is also interested in acquiring the site, because their Institute of Marine Biology is located on the island and the site offers an ideal location for research on coral reef and estuarine environments.

Zoning and access will be serious concerns of any developer who considers buying the island. The University has an advantage in negotiating a purchase in that its facilities are already on the island and the owners want to see the research use continue. The University estimates the probable purchase price at 7.5 to 10 million dollars.

Your Committee finds it is not practical to buy only a portion of the island because the portion most suitable for research facilities expansion is also the area most desirable for resort expansion.

H.B 1129 provides for DLNR to be the expending agency. Your Committee has amended the bill to give the prime user, the University of Hawaii, the purchasing authority.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 1129, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1129, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.
(Representative O'Kieffe did not concur.)

SCRep. 379 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1456

The purpose of this Act is to authorize the issuance of general obligation bonds to purchase Lumahai Beach, Kauai, for use as a State Park.

Your Committee finds Lumahai Beach is one of the most popular beaches on the north shore of Kauai. However, strong surf is prevalent during the winter months and some drownings have occurred. DLNR plans to acquire the beach, develop a park and establish lifeguard service.

Based on the testimony of DLNR, your Committee recommends an appropriation of \$150,000 at the present time for planning, survey, appraisal, and related costs, with additional funds to be requested at a later date if a satisfactory plan can be established.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1456, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1456, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.

SCRep. 380 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1087

The purpose of this Bill is to preserve the habitat of unique native species of flora and fauna by amending Chapter 195D of the Hawaii Revised Statutes to authorize the Department of Land and Natural Resources to petition for amendments to the conservation district boundary.

Your Committee finds that significant areas of quality native forest are not now protected by conservation district zoning, and adoption of this bill would make a positive contribution toward conservation efforts.

Your Committee has amended Section 3 as recommended by DLNR to clarify language relating to the definition of native species.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. 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 Planning, Energy and Environmental Protection.

Signed by all members of the Committee except Representative Andrews.

SCRep. 381 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 1326

The purpose of this bill is to support promising new ideas, new products and new processes. This bill, coupled with our expanded Hawaii Capital Loan Program, will greatly expand the range of financial options available.

Your Committee finds the Invention Development Program has been ineffective in the past due to requirements for collateral and ability to pay debt service. Further, there is a serious shortage of venture capital in the State.

Your Committee believes the Hawaii Innovation Development Program can fill the need for seed capital, create some effective business financing and hasten the formation of a private venture capital fund. We expect this fund to be able to help many innovative concepts through the development stage to become commercial ventures.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1326 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Tajiri.

The County of Maui, the Department of Health, the Hawaii Visitors Bureau, the Kauai County Council, the Department of Land and Natural Resources and the Department of Parks and Recreation of the County of Hawaii, all gave testimony in support of adopting H.B. No. 269.

Your Committees accepted amendments proposed by the Board of Land and Natural Resources as follows: 1) inserting the new section in Chapter 171 rather than Chapter 184, 2) clarifying that not all beaches will necessarily be served, and 3) adding the words "state beaches and" in Section 1, Page 1, Line 7, because proposed language provided for lifeguard services at State beach parks only.

The appropriation amount has been left to the determination of the Finance Committee, for both years of the biennium.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Intergovernmental Relations are in accord with the intent and purpose of H.B. No. 269, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 269, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 385 Water, Land Use, Development and Hawaiian Affairs and
Transportation on H.B. No. 1041

The purpose of this bill is to provide for broader law enforcement powers with respect to the control and management of beaches and ocean waters.

Your Committees find that the Department of Land and Natural Resources and the Department of Transportation do not have sufficient resources to enforce various rules that have been adopted for the protection of the general public. It is therefore appropriate to authorize other law enforcement officers to assist in enforcement of these various rules.

Your Committees has amended the bill to delete the request for an appropriation.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Transportation are in accord with the intent and purpose of H.B. No. 1041, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1041, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Bellinger, Bunda, Crozier, Hashimoto, Hiraki, Horita, D. Ige, Tajiri, Tungpalan, Yoshimura and Marumoto.

SCRep. 386 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on H.B. No. 1604

The purpose of this bill is to authorize the Board of Land and Natural Resources to modify or change the use provisions set forth in intensive agricultural leases executed pursuant to Chapter 171, Hawaii Revised Statutes, H.B. No. 1604 also proposes the deletion of the requirement that rental for all lease extensions be not less than the rental of the preceding term.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources.

Your Committees find that because of changing conditions in intensive agriculture, the specific use or uses set forth in a lease may no longer be economically desirable or feasible. H.B. 1604 would allow farmers to fully utilize available resources by permitting lessees to devote a portion of their leasehold to alternative agricultural, aquaculture or mariculture use, provided that the farmers obtain the approval of the Board of Land and Natural Resources. The Department had no objection to deletion of the lease extension requirement since present statutes provide for payment of rent at fair market value.

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

Agriculture are in accord with the purpose and intent of H.B. No. 1604 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Bunda, Hashimoto, Honda, Say and Tajiri.

SCRep. 387 Water, Land Use, Development and Hawaiian Affairs and Labor and Public Employment on H.B. No. 1092

The purpose of this bill is to establish a separate division within the Department of Land and Natural Resources headed by a historic preservation officer and to require that the historic preservation officer have a graduate degree in certain fields of study.

Your Committees believe that historic preservation has not received adequate attention and therefore the program should be enhanced by raising it to the level of a division.

However, your Committees do not want to unduly restrict the flexibility of the appointing authority to choose the best administrator available for the position. Therefore, your Committees have amended the bill by deleting the requirement that the State Historic Preservation Officer have a certain graduate degree.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Labor and Public Employment are in accord with the intent and purpose of H.B. No. 1092, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1092, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 388 Tourism on H.B. No. 1095

The purpose of this bill is to (1) establish an Office of Tourism, for administrative purpose within the Department of Planning and Economic Development; (2) establish a Visitor Industry Council (comprised of representatives from visitor industry organizations, labor organizations, the counties, and the Director of Planning and Economic Development and the new director of tourism). (3) require the Office of Tourism in conjunction with the Visitor Industry Council to develop and periodically update a "ten-year policy plan for tourism which shall be presented to the legislature for adoption by concurrent resolution;" and (4) transfer the tourism promotion and development functions of the Department Planning and Economic Development to the Office of Tourism.

Your Committee upon hearing the testimony presented on this bill, has discovered that several key components identified in this bill, such as the ten year plan for tourism growth and a visitor industry council, already exist in the form of the State Tourism Functional Plan and the State Tourism Functional Plan Advisory Committee.

Your Committee, upon further consideration, has made major amendments to the bill. This bill, as amended, still creates an Office of Tourism; the establishment of an Office of Tourism was a primary recommendation of the Legislative Auditor in its report entitled "Management Audit of the Hawaii Visitors Bureau and the State's Tourism Program." The office will be established (also following the suggestion of the auditor) within the Department of Planning and Economic Development for administrative purposes and be headed by a single executive to be known as the deputy director of tourism. The salary of the deputy director has not been specified.

The powers and duties of this newly created Office of Tourism are to:

- (1) Promote, market, and develop the tourism industry in the State;
- (2) Develop, coordinate, and implement long range state policies and directions for tourism and related activities, including updating of the state tourism functional plan;

- (3) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
- (4) Arrange for the conduct of research through contractual services with the University of Hawaii or any agency or other qualified persons concerning social, economic, and environmental aspects of tourism development in the State;
- (5) Provide technical or other assistance to agencies and private industry, upon request;
- (6) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
- (7) Encourage the development of educational training, and career counseling program in tourism;
- (8) Perform other necessary or desirable functions to facilitate the intent of this chapter;
- (9) Perform other functions required or authorized by law; and
- (10) Establish trouble shooting programs to monitor and investigate resident complaints about problems derived directly or indirectly from tourism and take appropriate action as needed.

Under this bill, the Director of the Department of Planning and Economic Development through the Office of Tourism may contract with the Hawaii Visitors Bureau (HVB) or any other visitor industry organization in relation to tourism promotion, marketing and development.

The deputy director shall be required to annually review the expenditure of public funds by the HVB or any other visitor industry organization and shall make necessary recommendations to ensure the effective use of such funds for the development of tourism. The deputy director shall also annually prepare a report of such expenditures, including descriptions and evaluation of programs funded, together with any recommendations the deputy director may have, and shall submit the report to the legislature as part of its annual report to the legislature.

Under the amended bill, the Office of Tourism will also be solely responsible for the tourism impact management system. The Office of Tourism will prepare an annual report which describes the system's applications in the preceding year, including the conditions and negative effects identified, the solutions recommended or pursued by responsible agencies or parties and the results obtained, the annual report shall be submitted to the legislature as part of the office's annual report to the legislature.

Further, the deputy director of the newly created Office of Tourism shall be responsible for preparing a comprehensive open space plan for the State which shall: (1) designate areas for specific open space purposes, such as for conservation and recreation uses and cultural, aesthetic, historic, or scenic preservation and (2) recommend a coordinated program to acquire, maintain, improve, protect, and direct the future use of, or otherwise conserve open space lands.

As commented on earlier, the Office of Tourism will be required to submit a report to the legislature on the programs and activities conducted in the immediate prior fiscal year at least twenty days prior to the convening of each regular session.

This bill also includes various housekeeping amendments, including, the repealing of Chapter 203, Hawaii Revised Statutes, entitled : "Tourism Development" (provisions dealing with contracts between the HVB and the Department of Planning and Economic Development), which are included for consistency when implementing the provisions for the Office of Tourism.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 1095, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1095, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 389 Tourism and Higher Education and the Arts on H.B. No. 820

The purpose of this bill is to develop a visitor industry employee program funded through the transient accommodations tax, to provide educational opportunities to employees in the visitor industry. The concepts of the bill include the areas of Aloha Spirit development, cultural heritage awareness, and job training skills enhancement.

Your Committees understand that there is precedent for establishing special funds for visitor industry training programs, e.g., in Hong Kong and Singapore. The School of Travel Industry and Management and the College of Continuing Education and Community Services state that, the travel industry in Hawaii soon will be facing a critical shortage of manpower. Tourism is by nature a labor intensive industry, and without an adequate supply of labor, future development and growth of the industry will be hampered. Moreover, it is the quality of human services that ultimately determines the quality of the tourism product and visitor satisfaction. The essence of service quality is imbedded in the attitudes and spirit of those providing the service. We have often said that it is the Aloha Spirit in its various manifestations that gives Hawaii's tourism industry its leading edge over other competitive destinations. Therefore, a program that emphasizes the human resource development element of tourism deserves the support of the legislature.

Your Committees have amended the beginning of the first paragraph of subsection (d) of page 2 of the bill to read as follows: "(d) There is established a visitor industry employee program which shall be administered by the University of Hawaii. Under the program, the University of Hawaii shall provide educational and informational services to employees of businesses dependent primarily upon the visitor industry for the following purposes:." Visitor industry job training programs already exist at the community colleges, therefore, your Committees believe that this newly established visitor industry employee program should be administered by the University of Hawaii as a whole and not solely by the College of Continuing Education and Community Services.

It is the intent of your Committees that the visitor industry employee program established by this bill cooperate and coordinate its efforts with the tourism training council of the Department of Labor and Industrial Relations and with other visitor industry job training programs in both the private and public sector.

The percentage of the revenues collected under the accommodation tax to be deposited into the visitor industry employee special fund has been left blank. Your Committees believe that the Committee of Finance, after review of the entire State's budgetary concerns, would be in a better position to determine what that percentage should be.

Your Committees on Tourism and Higher Education are in accord with the intent and purpose of H.B. No. 820, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 820, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Bunda and Tam.

SCRep. 390 Labor and Public Employment on H.B. No. 703

The purpose of this bill is to provide additional remedies and procedures for enforcing the prevailing wage and hour law governing public works in Hawaii.

Under existing laws, enforcement of the Little Davis Bacon Act has been left to the Department of Labor and Industrial Relations and the contracting agencies. The functions, roles, and resource capabilities of these agencies vary. Accordingly, prompt and consistent enforcement has not been assured.

Your Committee has carefully considered and reviewed the testimony presented and finds there is a need to improve on the existing system of assuring compliance with the substantive protections afforded employees working on public works in the State by providing civil remedies and allowing partial disclosure of payroll records.

Section 1 of the bill authorizes civil actions by employees and their agents or representatives to enforce Chapter 104. A penalty of two times the value of wage benefits, attorneys' fees, and costs of such civil actions will be assessed against any defaulting employer. In appropriate cases, injunctive relief is also allowed.

Section 2 of the bill has been amended to allow disclosure of certified copies of payroll to employees, their unions and representatives. An amendment has been made to require a governmental contracting agency to monitor certified copies of payrolls submitted by general contractors. Any detected or suspected violations of 104-2 will be reported by the contracting agency to the Director of Labor and Industrial Relations. The Director is also mandated to investigate complaints on a priority basis with a 30 day deadline for the commencement of investigations and the Director is further mandated to undertake investigations while work continues on the various projects.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 703, as amended herein, and recommends that it pass Second Reading in the form attached, hereto as H.B. No. 703, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Tungpalan.

SCRep. 391 Labor and Public Employment on H.B. No. 1492

The purpose of this bill is to change the method of reflecting increases or decreases in the Department of Labor and Industrial Relations' workers' compensation medical fee schedule.

Your Committee finds that existing law provides that these adjustments are to be tied to increases or decreases in the consumer price index for the Honolulu region prepared by the Bureau of Labor Statistics of the United States Department of Labor.

Your Committee finds further that in January 1987, the United States Department of Labor changed the method of computing the index by adjusting it semi-annually instead of bimonthly as was previously done. This bill will bring the State's adjustments into conformance with the new federal method of computing the index.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 1492, 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.

SCRep. 392 Labor and Public Employment on H.B. No. 1589

The purpose of this bill is to require contractors to pay fringe benefits for overtime work performed by employees in public works within the State of Hawaii.

Under present law, employees are merely compensated at one and one-half of their wage rates for overtime hours worked.

Your Committee has carefully considered and reviewed the testimony presented and finds that employees engaged in federal projects are paid fringe benefits for overtime work. Section 104-1 is amended to require a comparable provision in public works contracted by the State of Hawaii and its various political subdivisions. Section 104-2 is amended for purposes of consistency with Section 104-1.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 1589 and recommends it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 393 Health on H.B. No. 1151

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds to assist Kapiolani Health Care System for the needed renovation of the Kapiolani Women's and Children's Medical Center.

Your Committee heard testimony from the administration of Kapiolani Health Care Center in support of this bill. It was explained that these bonds are to be used to provide high quality health care services in an efficient and cost-effective manner. It was also established that it is the role of the legislature to approve the concept of the proposal as being in the public's interest and the evaluation of the strength of the bond market and financial viability of the project is determined by the Department of Budget and Finance. The Certificates of Need for the specific projects are in process.

The testimony presented also claimed that the bill needed to be amended to conform to the current tax code. Your Committee has amended the bill as proposed by the agent from Kapiolani Health Care System.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1151, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hayes, M. Ige, Leong, Metcalf, Peters, Shito and Tom.

SCRep. 394 Health on H.B. No. 1486

The purpose of this bill is to amend Chapter 340E, Hawaii Revised Statutes, to strengthen the State's Safe Drinking Water Law to bring it into conformance with federal law.

This bill imposes a ban of leaded products into the distribution systems of public water systems, expands penalties for tampering, and provides for expanded inspection authority. In doing so, the bill enables the State program to meet requirements of the U.S. Environmental Protection Agency (EPA) for primary enforcement authority delegation and funding.

The Department of Health (DOH) submitted testimony in support of the bill, expressing a strong belief that the provisions of the bill are necessary to the effective administration of the safe drinking water regulations.

Testimony was also received from Mr. Bill Dougherty, a private citizen, who recommended that the bill be amended to make it illegal to introduce a contaminant into an aquifer. The DOH agreed that this would be a reasonable amendment which would further strengthen the bill.

Therefore, your Committee amended Section 1 of the bill to include in the definition of "tamper" the introduction of a contaminant into an aquifer.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1486, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1486, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives M. Ige, Leong and Peters.

SCRep. 395 Health on H.B. No. 883

The purpose of this bill is to repeal the provision which requires a person to obtain a poison permit from the Department of Health before the person may obtain a license from the county to sell poisonous drugs and household remedies and rodent, insect, or weed destroyers.

Currently, a person who wants to obtain a license from the county must first obtain a permit from the State and pay a minimal fee. This mechanism requires a great deal of work on the part of the Department of Health while accomplishing

little.

Your Committee received testimony from the Department of Health infavor of the bill. The Department stated that these permits were not necessary for effective regulation of poisons and in fact the legislature recently amended the Hawaii Revise Statutes to give the counties the option of eliminating the requirement for licenses to sell these poisons.

Your Committee feels that this measure will eliminate useless administrative paperwork while not affecting the Department of Health's ability to control the sale, use and storage of these dangerous substances.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 883 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 M. Ige, Leong and Peters.

SCRep. 396 Health on H.B. No. 296

The purpose of this bill is to clarify Section 298-49, HRS, which provides a notice provision to the parents of a child who has not completed necessary immunization and physical examination requirements within three months after provisional entry into school, by deleting references to tuberculin testing, which is a mandatory preadmission requirement.

Your Committee finds that the above-mentioned statutory section creates confusion with regard to immunization requirements which must be met within the three month provisional entry into school, as reference to tuberculin testing, which must be met prior to school admission, is also included.

Your Committee believes that Section 298-49 was enacted to address the issue of noncompliance with provisional entry requirements, and therefore should not include references to pre-admission requirements such as the mandatory tuberculin testing.

The Department of Education provided testimony in support of this bill.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 296 and recommends that it pass Second Reading and be referred to the Committee on Education.

Signed by all members of the Committee except Representative Leong.

SCRep. 397 Health on H.B. No. 1406

The purpose of this bill is to provide financial support to the Sudden Infant Death Syndrome Education and Counseling Program based at Kapiolani Women's and Children's Medical Center.

Your Committee received testimony from members of the Hawaii SIDS Education and Counseling Program, other medical professionals and from members of families who have lost a child to SIDS, in support of this bill.

Your Committee finds that this effort has been going on since 1981 under federal funding and block grant support. These funds have not been available for the last two years and the activities of this important program have been reduced and the support services provided may soon cease. Your Committee also finds that the funds requested would be used to support the time of a medical pathologist, educator and counselor.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1406 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. 398 Health on H.B. No. 1102

The purpose of this bill is to amend the statutes to eliminate the problem the Hawaii Advisory Commission on Drug Abuse and Controlled Substances (Commission) has with reaching a quorum with the mandated fifteen members.

Your Committee received testimony from the Commission and the Department of Health in support of this bill. Testimony indicated that a problem currently exists with the Commission's ability to reach a quorum in order to function. The quorum number is determined by the mandated size of the Commission, which is often not the actual size of the Commission due to delay in appointing replacements for members who resign. While the Commission is composed of volunteer citizens whose enthusiasm is commendable, the members become frustrated when meetings are essentially pointless due to the lack of a quorum. This bill is intended to allow for a quorum to be based on the number of currently appointed members, which will improve the Commission's opportunities to perform its duties.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1102 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Ige, Leong and Peters.

SCRep. 399 Health on H.B. No. 1487

The purpose of this bill is to amend Chapter 329, Hawaii Revised Statutes, to: (1) conform the State's schedules of controlled substances with federal law; (2) to provide for the forfeiture of any vehicle used in the distribution of controlled substances; and (3) provide for the forfeiture of real property obtained from illegal activity involving controlled substances.

Your Committee believes that this bill will assist efforts to combat the increasingly sophisticated illegal distribution networks for controlled substances. New drugs are continuously designed and manufactured specifically for the purpose of circumventing anti-drug laws, and therefore efforts must continually be made to update legal provisions to prevent or stymie their distribution. The addition of synthetic "Dronabinol" encapsulated, "Midazolam", and "Quazepam" to the State's schedules of controlled substances serves to keep State laws current.

The second proposed statutory amendment would clarify that any aircraft, vessels or vehicles used in the sale, receipt or distribution of controlled substances would be subject to forfeiture and subsequent legal disposition.

The third, and perhaps most noteworthy, statutory amendment according to the Department of Health (DOH), involves seizures of real property by State and county narcotic investigators. At the present time these types of cases are being prosecuted in federal court since existing State law does not permit the forfeiture of real property. And as a result, the federal government is the recipient of any property forfeited. This bill would allow the State to seize real property obtained through illicit practices, and be the recipient of assets realized through sale or other dispositions.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1487 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives M. Ige, Leong and Peters.

SCRep. 400 Health on H.B. No. 858

The purpose of this bill is to amend the statutes to provide that all autopsies done in the State shall be performed by qualified pathologists.

At present the statutes do not specify the medical qualifications of persons doing autopsies. Autopsies performed by physicians who are not trained pathologists will in many instances lead to a wrong diagnoses, which may result in misinterpretation or loss of evidence important to civil, criminal, or public health

investigations.

Testimony indicated that 3 out of the 4 counties have qualified resident pathologists for autopsies. This bill will correct this gap as well as allow Neighbor Island pathologists to call on the forensic pathologists of the City and County of Honolulu to handle complex cases.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 858 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Ige, Leong and Peters.

SCRep. 401 Health on H.B. No. 178

The purpose of this bill is to require health insurers that provide pregnancy-related benefits to provide a one-time benefit for outpatient expenses resulting from in vitro fertilization procedures.

Currently, couples who have undergone extensive testing and tried numerous procedures but continue to be unable to conceive, must bear the cost of the in vitro procedure themselves, often over \$5,000 per try, or reconcile themselves to their inability to have a biological child.

Your Committee heard testimony in favor of the bill from the Pacific In Vitro Fertilization Institute, the Hawaii Infertility Support Group, the Department of Obstetrics and Gynecology of the John A. Burns School of Medicine, and a number of couples who have been candidates for the in vitro procedure. Hawaii Medical Service Association (HMSA) presented testimony in opposition to the measure.

HMSA's objections were related to cost considerations and the fact that with rising health care costs, premium rates would have to be raised, putting a burden on those with insurance. However, testimony from a number of other testifiers indicated that the overall costs, if spread among all subscribers, would be minimal compared to the benefits received by those who are enabled to have their own biological children through this procedure. The Pacific In Vitro Fertilization Institute projected that the additional cost per year per HMSA member would be approximately \$.60.

Your Committee feels that this measure has a number of safeguards in it to prevent a large increase in use of this procedure. Specifically, the measure limits coverage to those who have tried all other available treatments and to women whose spouses contribute the sperm; and to a one-time only. Coverage will also be limited to a one-time only benefit.

Your Committee finds that the in vitro fertilization procedure is relatively new and is by no means a panacea to the problem of infertility. It does, however, provide a medical option or alternative to infertile patients and should therefore be supported accordingly. It is not the intent of your Committee to support the increased use of in vitro fertilization in the future, but rather to support proven, medically safe procedures that promote the health, safety, and welfare of the public. Further, in recommending approval of this measure, it is not your Committee's intent to have this bill be cited as a precedent for other legislative measures mandating coverage of procedures that are not necessary to restore a person's health.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 178 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 M. Ige, Leong and Peters.

SCRep. 402 Health on H.B. No. 882

The purpose of this bill is to amend the statutes to eliminate the requirement of a ten-day shelf-life for fluid processed milk.

Testimony indicated that this is a "housekeeping" measure. The requirement was challenged in United States District Court and the court issued a permanent injunction against the law on constitutional grounds. The law is now unenforceable.

Your Committee on Health is in agreement with the intent and purpose of H.B. No. 882 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 M. Ige, Leong and Peters.

SCRep. 403 Health on H.B. No. 1482 (Majority)

The purpose of this bill is to require fluoridation of public water supplies in our state for prevention of tooth decay and other dental caries. This is an administration bill.

Your Committee heard testimony in favor of this bill from the Department of Health, representatives from the Center of Disease Control, the Executive Office on Aging, the Office of Children and Youth, the Hawaii Dental Association, the Hawaii Medical Association, the Hawaii Nurses Association, the Hawaii Dietetic Association, the Hawaii Public Health Association, the State Health Planning and Development Agency, E Ola Mau, numerous health professionals, parents, students, teachers and citizens.

Virtually every credible scientific and medical organization which has studied the issue of fluoridation urged passage of this bill. Testimonies were received from former residents of mainland U.S. areas which have had fluoridation successfully implemented, and from Hawaii's brief experience with the water system on Molokai.

In the case of Molokai, one doctor noted "remarkable" reduction in dental caries that was produced when a low level of fluoridation was introduced into the Mauna Loa water supply on Molokai. Dental caries were reduced by 59% in children from the beginning of the introduction of fluoridation. This reduction is consistent with data from mainland U.S. areas also enjoying the benefits of fluoridation.

Your Committee finds Hawaii's decay rates for children are among the highest in the nation, and that we spend an average of \$90 per person on dental care, much of which can be prevented, compared to the national average of \$74. This includes our State government's cost for dental treatment for welfare recipients of \$10 million a year.

Fluoridation has been proven safe and effective for 120 million Americans, in 41 of the largest 50 cities, including New York, Chicago, Philadelphia, Houston, Detroit, San Francisco, Seattle, Denver, Long Beach, and Oakland. In the Pacific Area, Guam, Samoa, Hong Kong and Singapore have fluoridated water.

Your Committee heard testimony against the bill from several citizen organizations which distrust the conclusions from the scientific and medical community, and which claim that fluoridation is not safe or effective. Claims were made that fluoridation may be responsible for dental damage, skeletal damage, genetic damage, cancer, and AIDS. While sympathetic to their concerns, your Committee did not find their views convincing or consistent with the best available information and scientific methods.

Your Committee is aware, however, that further community dialogue and education on this subject is important. Accordingly, the bill has been amended to allow for public expression before a given water supply area is fluoridated, and to provide funds for public education. Your Committee has also added language which would require the department to provide regular review of the safety and effectiveness of fluoridation.

Your Committee has also amended the bill:

- (a) by changing the definition of "fluoridation plan";
- (b) to include in paragraph -3, the authorities and duties of the department, a provision "(H) Periodic evaluation of the safety and effectiveness of

fluoridation".

(c) deleted the section which defined the prohibited acts.

Your Committee has also made some technical, nonsubstantive amendments 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. 1482, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1482, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Leong.
(Representative Shito did not concur.)

SCRep. 404 Health on H.B. No. 98

The purpose of this bill is to define drug paraphernalia, prohibit its sale or manufacture for use with controlled substances, and provide for its forfeiture.

Currently, the sale or manufacture of drug paraphernalia is legal for any reason, contributing to the ease with which use of illegal drugs has increased in the past years.

Your Committee heard testimony in favor of this type of legislation from the Department of Health, the Honolulu Police Department, and the Department of the Prosecuting Attorney of Honolulu. All three expressed their opinion that sale of these items encourages and abets the illegal usage of drugs.

Your Committee feels that the measure will afford enforcement agencies a new avenue to combat the drug problem in our society.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 98 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives M. Ige, Leong and Peters.

SCRep. 405 Judiciary on H.B. No. 1573 (Majority)

The purpose of this bill is to fund a study of the Aloha State Bond Lottery.

The Aloha State Bond Lottery is a means by which additional revenues for State-sponsored programs can be generated without increasing taxes. The Bond Lottery is similar to the traditional lottery programs, however, it has certain significant differences that makes it potentially more desirable from a social impact viewpoint.

Unlike the traditional lottery ticket concept, the Aloha State Bond Lottery concept entitles the holder of the Bond to participate in the drawing as long as he holds the Bond, and the Bond holder may at any time demand a full return of the principal amount of the Bond. Upon redeeming the Bond, the holder gives up the holder's right to further participate in the contest. Thus, the Aloha State Bond Lottery minimizes the risks to the Bond holder since the holder can demand a full return of the monies invested in the Bond contest and it does not force the Bond holder to continue to invest more monies in order to participate in the contest.

Furthermore, since the Bond could last forever and is freely assignable, the Aloha State Bond Lottery could appeal strongly to the 5 to 6 million tourists that visit Hawaii each year, it could be marketed as a souvenir or gift item.

The interest earned on the accumulated amounts paid for the Bond could be used as the prize money in the drawing. The funds consisting of the money paid to purchase the Bonds could be made available in the form of loans to sponsor projects beneficial to the State, in addition to being spent on appropriate State programs.

Your Committee has heard testimony in support of this study from the Department of Budget and Finance and concurs with its request to increase the amount appropriated for said study to \$100,000 so that a very careful and detailed study can be reported to the Legislature on this novel concept. As such, your Committee has amended this H.B. No. 1573 by increasing the amount appropriated for such a study to \$100,000.

Your Committee has further amended H.B. No. 1573 by detailing some of the specific items which the study on the Aloha State Bond proposal should cover and report to the Legislature. Of special concern to this Committee is the social impact that such a program may have on Hawaii's community and although the Aloha State Bond Lottery seems to avoid many of the drawbacks and problems of the traditional lottery, this Committee wishes to have the study also focus in upon the effects that such a program may have upon spending behavior, cultural values, customs and life styles of the people of Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1573, as amended, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1573, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters, Yoshimura and Jones.
(Representatives Cachola and Hagino did not concur.)

SCRep. 406 Judiciary on H.B. No. 1250

The purpose of this bill is to increase the amounts allowed for compensation of court appointed counsel for indigents.

This bill would amend the present law by increasing the fee for out-of-court services from \$30 to \$40 an hour and by increasing the fee for in-court services from \$40 to \$60 an hour. The maximum fee schedule would also rise. Under H.B. No. 1250, caps on fees would not be absolute, but fees in excess of the recommended caps would be allowed upon the approval of the trial judge and the administrative judge of the criminal court.

Your Committee received testimony from the president of the Hawaii Association of Criminal Defense Lawyers in support of H.B. No. 1250.

This measure will provide for remuneration of appointed counsel commensurate to the amount and caliber of services rendered, bringing Hawaii's statute into accordance with Federal law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1250 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 407 Judiciary on H.B. No. 951

The purpose of this bill is to make uniform the disposition of property forfeited under the criminal laws of Hawaii. In addition, this bill establishes a criminal forfeiture fund into which all forfeitures of money or other property ordered by the courts pursuant to the statutes relating to criminal offenses will be placed. This fund is to be administered by the comptroller.

Currently, there are three forfeiture statutes relating to criminal offenses, Section 329-55, HRS, for drug offenses, Section 701-119, HRS, for penal code offenses in general and Section 842-3, HRS, relating to organized crime. Property forfeited under these sections is treated differently in the three provisions.

Your Committee heard testimony in support of this bill from the City and County of Honolulu Prosecuting Attorney's office.

This bill establishes a criminal forfeiture fund administered by the comptroller and provides that forfeitures under all three sections go into the fund. Deductions are made for the expenses involved in the forfeiture and the balance is

returned to the law enforcement agencies whose work resulted in the forfeiture.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 951, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 408 Judiciary on H.B. No. 1275

The purpose of this bill is to amend Chapter 15, HRS, by adding a new section that would authorize the use of a federal write-in absentee ballot.

Your Committee heard testimony from the Lieutenant Governor's office, indicating that Federal law requires states to permit overseas voters the use of the federal write-in absentee ballots in general elections for federal offices.

Your Committee finds that this bill will insure that Hawaii will be in compliance with federal law as prescribed under Section 1973ff of Title 42, United States Code, as amended, and that all overseas Hawaii citizens will be afforded the opportunity to vote.

Your Committee amended the bill to correct a typographical error in Section 1, line 8.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1275, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1275, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 409 Judiciary on H.B. No. 916

The purpose of this bill is to amend Section 76-16(9), HRS, to make the position of private secretary to the Administrative Director of the Courts exempt from civil service.

The Judiciary submitted testimony in favor of this bill. Testimony indicated that State department directors and deputies may select secretaries without regard to the civil service system.

Your Committee finds that it is important that persons in leadership positions be able to choose a private secretary who understands the sensitivity of the position and with whom the department director or deputy can work with most effectively.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 916, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 410 Judiciary on H.B. No. 1397

The purpose of this bill is to provide for arbitration to resolve international commercial disputes and to assure access to the courts of this State for legal proceedings ancillary to such arbitration.

Testimony was received in support of the measure from the Judiciary and representatives of the legal community.

With the rapid expansion of international business, trade and commerce among nations in the Pacific Basin, one of the major challenges that face Hawaii is to ensure that Hawaii's citizens fully participate in such business, trade and commerce. Hawaii has a unique opportunity to be a part of the investment linkages that are developing throughout the Asian and Pacific region. Disputes arising from such business trade and commercial relations and transactions are often best resolved by international arbitration in lieu of international litigation.

The concept of the "Asia-Pacific Center for the Settlement of International Commercial Disputes" has been established to provide a neutral and respected international facility for the resolution of these disputes.

The State's existing laws on arbitration are for domestic rather than international arbitration. This bill provides for legal authority for resolution of international business, commercial and trade disputes in the State of Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1397, 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 Representative Cachola.

SCRep. 411 Judiciary on H.B. No. 953

The purpose of this bill is to amend certain provisions relating to bail.

The bill will amend Chapter 804, HRS, to (1) specify general conditions for release on bail; (2) add further special conditions which the court may impose on a defendant who is released on bail; (3) provide for enhanced sentencing for persons who commit a crime while on bail; (4) amend the mens requirement for violation of conditions of release on bail; and (5) add additional requirements for surety companies who post bail for accused.

Presently, the law does not impose any conditions for release on bail. All that is required is for the accused to appear at court proceedings. The bill would require that the person released on bail not commit any offense while on bail, that he remain in the jurisdiction of the court, that he appear at all court hearings and that he not contact the alleged victim or any witnesses.

Under present law, the judge may impose certain conditions for release on bail if there is a showing that the defendant will commit a serious crime, seek to intimidate witnesses or will otherwise interfere with the orderly administration of justice. The bill will add other requirements that the judge may impose as a condition for bail. The judge may require the defendant to maintain or seek employment; to comply with a curfew; or to undergo medical or psychiatric testing or treatment.

The bill will change the state of mind requirement for violating conditions of release of bail from wilfull to intentional, knowing or reckless.

Currently, a person cannot be a surety for an accused if he does not own or possess property in the State. The bill will prohibit a person from acting or surety if the person has failed to pay a judgment or if the person has misrepresented the person's financial sufficiency on the surety bond.

The bill will also clarify which parties may move the court to forfeit the bond and will make the forfeiture of bond on recognizance mandatory if the accused fails to appear.

The bill will add a new sentencing section if a person commits an offense while on bail or release.

The Prosecuting Attorney, City and County of Honolulu, testified that the bill will fill several gaps that exist in the present bail law. A-1 Bail Bonds and Aloha Bail Bonds testified against the bill. The attorney representing the two companies testified that the bill will take away the bail bondsman's incentive to bring a defendant back to justice if there is immediate forfeiture of bail. The Office of the Public Defender testified against most of the proposed amendments. They testified that the bill appeared to respond to theoretical concerns of the dangerousness of persons released pending trial.

After hearing the testimony, your Committee amended the bill by giving the court the discretion to forfeit the bond or recognizance.

Your Committee also amended the bill to correct certain typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 953, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 953, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 412 Judiciary on H.B. No. 284 (Majority)

The purpose of this bill is to amend the Constitution of the State of Hawaii to extend the length of the regular session of the legislature from sixty days to eighty days.

Currently, the Constitution states that the regular session shall be limited to a period of sixty days with a recess for not less than five days.

Your Committee received testimony in support of the amendment to the State Constitution from the Yacht Harbor Towers Association of Apartment Owners and the Hawaii Leasehold Equity Coalition. Due to the volume of bills introduced each legislative session and the complexity of the issues, the extension would allow sufficient time to consider proposed legislation and allow for more effective public participation in the legislative process.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 284, and recommends that it pass Second Reading and be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representative Cachola.
(Representative Jones did not concur.)

SCRep. 413 Judiciary on H.B. No. 1905

The purpose of this bill is to amend Chapter 855 of the Hawaii Revised Statutes relating to the State Law Enforcement Planning Agency (SLEPA), to improve the effectiveness of their operations and bring the current statute into conformance with the present functions of the agency.

The SLEPA was established in 1969 to administer federal crime funds for the State under the Omnibus Crime Control Act of 1968. The Crime Control funds have terminated, but the law regarding SLEPA has not been changed to reflect this. However, SLEPA currently administers funds from the federal Justice Assistance Act and the Victims of Crime Act. This year it will also be responsible to administer the Anti-Drug Abuse Act of 1986. Therefore it is appropriate to add these new duties to SLEPA's statute.

Your Committee received testimony in support of the measure from the office of the Attorney General, Victim/Witness Kokua Services, and the Honolulu Police Department.

The Office of the Attorney General's testimony, while in support of the bill, suggested certain changes which your Committee was in agreement with as follows:

(1) Section 1 to read: "...who shall be assisted by support staff for the administration and planning efforts of the office.";

(2) Section 2(4) to read: "Coordinate and assess information on a statewide basis for the development of policies to improve the systems and their activities."; and

(3) Section 3, page 4: delete "and" on line 19, delete the period on line 21, and add ", and the Anti-Drug Abuse Act of 1986."

Your Committee expressed concern that the functions of SLEPA not be overly broad in scope relative to existing resources until the Legislature decides to provide more funding to the agency to administer programs.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1905, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1905, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 414 Judiciary on H.B. No. 150

The purpose of this bill is to revise Chapter 351, Hawaii Revised Statutes, relating to criminal injuries compensation.

The bill adds a new section to Chapter 351 that imposes a twelve month deadline for decisions on applications for payment of compensation. Deleted by this bill is the provision that the order may issue so long as an "arrest has been made or such act or omission" is "reported" to police. The bill also revises the situations in which the commission may suspend its proceedings to include that time during which a criminal investigation may be compromised.

Chapter 351 also explicitly mentions those crimes eligible for victim compensation. The bill revises the enumerated crimes to include the new murder in the first and second degree and the five (5) sexual assault crimes.

Finally, the bill adds a provision to Section 351-63, relating to recovery from collateral sources to allow the commission to recommend to the court that the defendant or offender pay restitution as a condition of his sentence to the victim or person receiving compensation. This amendment would allow the commission's order of compensation to offset the court order of restitution for any duplicative awards as outlined in §351-33 by the amount ordered or paid by the defendant to the victim.

As a matter of sentencing, the bill revises Section 706-624, HRS, by directing the court to order restitution to either the commission or the State.

Your Committee received testimony from the Department of Social Services and Housing that supported most sections of the bill. One exception addressed the practicality of the deadline in light of ongoing criminal or civil activities that affect evaluation of the claim. A second exception noted that the deletion of "arrest" and "report" language conflicts with Section 1403(b)(2) of the (Federal) Victims of Crime Act of 1984.

Your Committee therefore amended the bill to allow a decision on an application within twelve months of (1) the close of ongoing medical treatment; (2) the close of a worker's compensation claim still pending one year after the application; or (3) the close of the police investigation. Section 2 of the bill also reflects compliance with the Federal law to allow a claim so long as the victim files a complaint or report with the police department or other appropriate law enforcement agency.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 150, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 150, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 415 Judiciary on H.B. No. 141

The purpose of this bill is to provide an appropriation for the fiscal year 1987-1988 to the Hawaii Criminal Justice Commission which produces information and educational programs for the public about the criminal justice system.

Your Committee received testimony in favor of this measure from the Hawaii Criminal Justice Commission and the Honolulu Police Department.

The funds granted to the commission are used to produce video documentaries and public service announcements that air on both commercial and public television. In addition, the commission wants to produce a quarterly newspaper insert which will provide information on crime prevention and the criminal justice system. Finally, the bill provides funding for two temporary fulltime staff persons.

Your Committee has amended the bill to reflect the recommended appropriation of \$129,520.00. The bill was also amended to correct a typographical error.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 141, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 141, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Peters.

SCRep. 416 Judiciary on H.B. No. 93

The purpose of this bill is to amend the District Court fee schedule for the filing of new actions and other papers in the District Courts.

Your Committee heard testimony from the Judiciary indicating that this bill would address their desire to streamline the processing of filings in District Court by having a standard uniform fee for most filings made to initiate legal proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 93 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 417 Judiciary on H.B. No. 1873

The purpose of this bill is to provide for appropriations for the career criminal programs which are located within the Prosecuting Attorneys' offices of each of the counties in the State.

Testimony was received in support of this measure from the Prosecuting Attorneys from all the counties in the State.

The career criminal program was established by Section 845, HRS, to prosecute those multiple and repeat offenders who make a "career" out of crime.

Your Committee notes that since its inception in 1978, there has been only one increase in the funding of the program. The appropriation requested is crucial to ensure that the goals and objectives of the program are accomplished.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1873, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cachola.

SCRep. 418 Judiciary on H.B. No. 905

The purpose of this bill is to provide funds in the amount of \$80,000 to be expended by the Judiciary in order to enable the Hawaii Bicentennial Commission to coordinate activities related to the 200th anniversary of the United States Constitution.

The Commission on the Bicentennial of the United States Constitution was established by an act of Congress in 1983. This federal commission does not provide the State with funding. The State commission was established by Chief Justice Herman Lum at the request of retired U.S. Supreme Court Chief Justice Warren E. Burger.

Representatives from the Judiciary and the Hawaii Bicentennial Commission submitted testimony in support of this bill.

Your Committee has determined that the celebration of the Bicentennial of the Constitution would provide the people of Hawaii with the opportunity to expand their knowledge of our nation's system of government and its relationship to our quality of life.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 905 and recommends that it pass Second Reading and be referred to the

Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 419 Judiciary on H.B. No. 1253

The purpose of this bill is to provide for an increase in the amount of compensation accorded court appointed counsel and guardians ad litem by appropriating the sum of \$1.5 million out of the State general fund.

At present, fees range from \$30 an hour for out-of-court services to \$40 an hour for in-court services. H.B. No. 1253 will allow for compensation in the amount of \$40 an hour for out-of-court services and \$60 an hour for in-court services.

Your Committee received testimony from several guardians ad litem and foster parents in support of this measure. The testimony indicated that the fees currently allowed barely cover overhead costs, and as such, are insufficient to maintain legal services as called for under HRS §802-5(b)(8) and §587-33(c) to §587-33(f).

Your Committee has determined that the legal profession cannot be expected to subsidize the cost of enforcing the present law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1253, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1253, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 420 Judiciary on H.B. No. 1825

The purpose of this bill is to appropriate \$1,685,000 to provide for a new Kawaihau District Court on the island of Kauai.

Your Committee notes that currently, the judicial proceedings for the Kapaa district are being held in the Lihue District Court which creates much inconvenience for witnesses, parties, attorneys and court personnel.

Your Committee understands that consideration is being given to the construction of a new district court. A State-owned site is being sought, however, if none is available, acquisition of private land will be considered. The alternative to constructing a new district court in Kapaa is to utilize an existing facility, however, a facility to meet the needs of the Kawaihau District Court is not available in Kapaa.

Your Committee is in accord with the intent and purpose of H.B. No. 1825, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Peters, Yoshimura and Jones.

SCRep. 421 Judiciary on H.B. No. 910

The purpose of this bill is to amend Section 76-16, HRS, to authorize on a regular basis either an extra law clerk or an extra court clerk for each of the two administrative judges in the Circuit Court of the First Circuit and one clerk for assisting judges with the probate calendar in the Circuit Court of the First Circuit.

This bill will expand the current list of civil service exempt State of Hawaii employee positions by adding one clerk for each administrative judge and for the judge hearing the probate calendar in the Circuit Court of the First Circuit, and one law clerk for the administrative judge of the District Court of the First Circuit.

The Judiciary testified in favor of this bill as they felt that the administrative and probate judges are unable to carry the added responsibilities in addition to their regular duties, without the additional staff which this bill would authorize.

Your Committee finds that the past workload has been accommodated by the hiring of temporary help for the judges, but the need for the added help is really permanent and not temporary. This bill would provide permanent clerk positions for administrative and probate judges.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 910 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 422 Judiciary on H.B. No. 909

The purpose of this bill is to amend Section 607-5, HRS, to simplify and streamline the Circuit Court fee schedule by providing for payment of a uniform fee. This bill provides for a uniform fee of \$50.00 for most filings.

Under the current fee schedule, filings range from \$3 up to \$30, with most in the \$10-\$15 range.

The Judiciary testified in favor of this bill, as they felt that a simplified fee schedule will expedite the filing of documents and shorten the time that people waiting to file documents have to wait in line.

Your Committee finds that the simplified fee schedule will expedite the filing of documents and shorten the time that people wishing to file documents have to wait in line. The simpler fee schedule will also simplify the Judiciary's accounting system for the monies received and thereby save both time and money.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 909, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 423 Judiciary on H.B. No. 800

The purpose of this bill is to effect standardization of campaign spending reporting.

The Lieutenant Governor's Office testified on this measure, but stated that since this program relates to campaign spending, deferred to the Campaign Spending Commission for an official position.

Your Committee finds that there is a great deal of merit in creating a standard program available to all candidates for public elective office.

While in agreement with the intent of the bill to provide standardization of campaign spending reporting, your Committee believes that flexibility should be given to the Campaign Spending Commission in selecting an appropriate computer program. Your Committee has therefore amended the bill to provide for this flexibility by amending Section 1, lines 8 and 9, by deleting the words "known as The Campaign Reporter."

Your Committee received no testimony on the matter of general appropriations for the Lieutenant Governor's Office to effectuate the purposes of this bill. Your Committee therefore recommends that the matter of the general appropriation be deferred to the Committee on Finance.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 800, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 424 Judiciary on H.B. No. 1636 (Majority)

The purpose of this bill is to amend the Hawaii Constitution to delete the power of the Governor to item veto or to reduce monetary appropriations authorized by the Legislature.

Under the present law, the Governor may item veto or reduce monetary appropriations and the Legislature may only consider those item vetos or reductions, without considering the contents of the bill as a whole. An item veto can alter or change the intent and focus of a particular bill, which, in essence, gives the Governor power to legislate through the power of the item veto.

Your Committee feels that by deleting the power to item veto, there will be more accountability to the State Legislature and allow the Legislature to scrutinize the budget more closely.

Your Committee was concerned that totally eliminating the Governor's power to line item veto would leave the Governor with only the choice of vetoing the entire budget or accepting it. The necessity of reconvening the entire Legislature to reconsider a vetoed measure when only a single item might be in controversy could well prove costly and inefficient.

Your Committee therefore amended the bill to provide that if the Governor wishes to veto any specific item or items in any bill, it must be done with the advice and consent of the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Ways and Means Committee, and the Chairman of the House Finance Committee.

Your Committee is in accord with the intent and purpose of H.B. No. 1636, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1636, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Peters, Hemmings and Jones did not concur.)

SCRep. 425 Judiciary on H.B. No. 1469

The purpose of this bill is to authorize appropriations for satisfaction of judgments against the State, settlements, the refund of real property taxes and miscellaneous claims as provided by Section 37-77, Hawaii Revised Statutes. This bill also appropriates an additional sum for the settlement of Moseman Construction v. State, Civil No. 85-1226.

Your Committee received testimony from the Attorney General in support of this measure.

Your Committee has also amended the bill pursuant to the recommendations of the Attorney General as follows:

(a) A sum of \$362,021.70 was added to Section 1 for four cases either resolved or settled based on supporting documentation furnished your Committee by the Attorney General's office subsequent to the hearing.

(b) Correction of a typographical error for Balch v. State, thereby amending the appropriation from \$270,000 to \$275,000.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1469, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1469, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 426 Judiciary on H.B. No. 1423

The purpose of this bill is to make a supplemental appropriation to the Neighborhood Justice Center budget.

Testimony in support of this measure was received from the Family Court, the Judiciary's Alternative Dispute Resolution Program, the Neighborhood Justice Center, and the Victim/Witness Kokua Program.

The Neighborhood Justice Center provides a vital service to families in crisis by providing family divorce mediation services at no cost to its clients. Since the Family Court put presumptive mediation in contested divorce cases into effect on January 1, 1987, the case load of the Neighborhood Justice Center is expected to increase significantly.

An additional \$45,000 is requested in order for the Neighborhood Justice Center to keep up with the anticipated increase in caseload due to presumptive mediation ordered by the courts.

Your Committee is in support of this appropriation of additional funds for the Neighborhood Justice Center to meet the growing demand for its services and amended the bill accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1423, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1423, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 427 Judiciary on H.B. No. 1321

The purpose of this bill is to authorize the Hawaii Criminal Justice Data Center to assess fees for services. In addition, this bill clarifies the composition of membership on the Criminal Justice Data Interagency Board. Lastly, this bill amends the title of the head of the Hawaii Criminal Justice Data Center.

Your Committee received testimony from the Department of the Attorney General in support of this measure as well as from the City and County of Honolulu Police Department.

This bill would add a new section to Chapter 846, Hawaii Revised Statutes, to allow the Hawaii Criminal Justice Data Center to assess a fee for each service provided, including criminal history record check, processing applications for the expungement of arrest records, and accessing State criminal justice information. Exceptions to the above fees will be made for criminal justice agencies and State and County agencies. Your Committee supports this measure to assist the State in defraying the costs of providing these services.

The amendment regarding the membership of the Criminal Justice Data Interagency Board will clarify the composition of the board and provide that a position on the board will terminate automatically upon termination of employment with or reassignment to nonadministrative or other functional responsibilities for their respective representative agencies.

Lastly, the bill changes the title of the head of the Hawaii Criminal Justice Data Center from director to administrator to conform with the civil service classification for the position.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1321, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 428 Judiciary on H.B. No. 1698

The purpose of this bill is to authorize the Judiciary to appoint adult and juvenile probations officers for a division of adult probation and for a division of juvenile probation. This bill also provides that any adult or juvenile probation officer appointed by any other agency shall be attached for administrative purposes to the respective adult or juvenile probation division.

Your Committee heard testimony from the Judiciary indicating that because the

two main functions carried out by probation officers (presentence reports/studies and supervision of probationers) are judicial functions, the personnel responsible for carrying out these responsibilities should be under the supervision and control of the courts.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. no. 1698, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 429 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1733 (Majority)

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in the amount of \$15,000,000 to be used to finance the development of Hawaii Submarines, Inc.

Chapter 39A, Hawaii Revised Statutes, does not provide for the funding of high technology enterprises through the issuance of special purpose revenue bonds by the Department of Budget and Finance. This issue is addressed in a separate bill.

Your Committee received testimony from representatives of Hawaii Submarines, Inc., and the Bank of Hawaii in support of H.B. No. 1733.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with H.B. No. 1733, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.
(Representative Isbell did not concur.)

SCRep. 430 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 942

The purpose of this Act is to appropriate funds for a small business incubator facility in the Hilo area. A small business incubator facility provides counseling and technical assistance. Statistics indicate such a facility can increase the chances of a small business succeeding by 50%.

Your Committee finds that the Hilo area needs business stimulation and that the incubator facility can provide significant help.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 942 and recommends that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 431 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 565

The purpose of H.B. No. 565 is to provide for low interest loans to the residents and citizens of Hawaii who have suffered loss of their homes and lands to the devastating effects of the recent volcanic eruptions.

Your Committee finds the assessed losses from recent lava flows is in excess of \$6,000,000. The true losses to the property owners in terms of replacement value could be much higher. In most cases, insurance did not cover the full cost of replacement. Access roads and utilities are private and the cost of replacement must be born by the property owners.

These losses were beyond the control of the property owners. In most cases, owners cannot finance reconstruction. These owners need a responsible public relief program with a specific low interest plan for repayment.

Your Committee has made the following amendments to H.B. No. 565:

Your Committee received testimony to the effect that the Governor is appointing a commission on space which would accomplish much of the work that is envisioned by the special task force. Furthermore, the University of Hawaii also has a working group devoted to space. Your Committee therefore believes that the best legislative approach to enhance the decision-making process with respect to Hawaii and its relationship to the space industry would be to provide funds for the administration to explore the feasibility of establishing a major space technology industry in Hawaii.

Your Committee has therefore amended H.B. 1227 to provide for a feasibility study exploring various aspects of the industry. A preliminary report shall be prepared in time for circulation at the international space conference to be held in Hawaii in August 1987, and a more complete report is to be made to the legislature by the end of the calendar year.

Your Committee has provided funds for fiscal year 1987-88 only, with the expectation that additional money will be sought for the second year of the biennium based on the results of the work funded herein.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1227, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1227, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Tajiri.

SCRep. 434 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 421

The purposes of this Act are (1) to increase efficiency in the search of land titles, (2) to reduce the cost of title searches through increased efficiency, and (3) to provide for a uniform, statewide method of record search based on a parcel identifier system.

Based on testimony received that the present Land Court system guarantees title effectively and efficiently, your Committee feels that references to the Land Court are inappropriate at this time.

Your Committee therefore has deleted Section 2 and references to the Land Court. The subsequent sections have been renumbered. The effective date has also been changed from "upon approval" to "July 1, 1988."

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 421, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 421, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Andrews and D. Ige.

SCRep. 435 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1870

The purpose of this bill is to provide funds for the continuation of a study begun in 1984 on the feasibility of the State setting aside lands for the practice of subsistence lifestyles.

This bill further provides that the lead agency shall be the University of Hawaii, in collaboration with the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands and the Department of Land and Natural Resources, and that the findings and recommendations of their joint study be submitted prior to the convening of the 1988 Legislature.

Your Committee received favorable testimony from the Department of Urban and Regional Planning of the University of Hawaii, the Office of Hawaiian Affairs, and the Departments of Hawaiian Home Lands and Land and Natural Resources.

The research completed as a result of a 1984 House Resolution identified com-

1832, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 437 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 892

The purpose of this bill is to repeal the bonding requirements for agents who sell hunting licenses. The bill provides that if agents prepay for licenses, then the fees collected shall be retained by the agents, rather than being remitted to the Department of Land and Natural Resources.

Your Committee finds that bond rates have increased substantially. This creates a situation where the commission realized by the agent of the license sales are minimal and at times less than the cost of the bond. This bill would delete the bonding requirement and encourage the license agents to continue being representatives of the Department of Land and Natural Resources in selling licenses and providing this service to the public. The Department of Land and Natural Resources testified in favor 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. 892 and recommends that it pass Second Reading, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 438 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 428 (Majority)

The purpose of this bill is to reauthorize the negotiation of long term residential leases by the Department of Land and Natural Resources and persons who were displaced by, or who are descendants of the refugees of, the 1926 Hoopuloa lava flow.

Your Committee finds that Act 62 (1982) authorized such leases but that Act expired on January 1, 1987. Some eligible persons may not have applied by that time. Your Committee understands that there may be some dissension within the community as to whether an additional opportunity should be given for people to make application, but your Committee believes that in fairness to those who might be eligible, the extension should be granted. The humanitarian purpose of the original legislation is best served when as many eligible people as possible are allowed to return to the land and have a measure of security.

Your Committee has made nonsubstantive amendments for style and clarity, and has added a date to Section 2 (d).

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 428, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 428, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.
(Representative Say did not concur.)

SCRep. 439 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1841 (Majority)

The purpose of this bill is to increase the Board of Land and Natural Resources from six members to eight members and to add a second deputy in the department. The stated purpose of increasing the number of members on the board is to make it easier to have a quorum present. The second deputy will enable DLNR to respond to increased workload

Your Committee finds that the Board has not had a problem getting a quorum at their meetings, but that the workload in the Chair's office is heavy and an added deputy would increase efficiency. Your Committee has therefore deleted Section 2 of the bill and renumbered subsequent sections accordingly.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1841, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1841, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and D. Ige.

(Representatives Isbell and O'Kieffe did not concur.)

SCRep. 440 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1354

The purpose of H.B. No. 1354 is to authorize the Governor to issue special purpose revenue bonds in the total amount not to exceed \$3,000,000 to assist the Hawaii Brewery Development Corp. to finance a beer brewery within the county of Hawaii.

Your Committee finds the economy of the State needs to diversify to provide a broader business and industrial base for the State's economy. A substantial obstacle to establishment of new industrial enterprises is the difficulty of raising capital in Hawaii. Your Committee finds that establishment of new industry and the associated jobs should be a top public priority.

Your Committee finds that a brewery will support additional economic activity and provide increased employment opportunities. We believe a brewery is a viable opportunity to establish a new industry in Hawaii. Your Committee expressed concern over littering and was informed the brewery planned to can most of their production in order to minimize shipping costs. They will buy back bottles and cans may be recycled through existing programs.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1354 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 441 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1396

The purpose of this bill is to provide the counties greater flexibility in the enforcement of their respective zoning ordinances.

Your Committee finds that county zoning violations must currently be prosecuted as a criminal offense and such prosecution, with the concomitant stigma and police record, is inappropriate. However, your Committee is concerned that a buyer of property might inadvertently become liable for a lien that was not yet recorded.

Your Committee recommends amending H.B. No. 1396 to require immediate recordation of a Notice of Lien in the Bureau of Conveyances of the State of Hawaii and provide for the lien to be voided and the seller to remain liable in cases where the buyer of real property purchased the property before the lien was recorded.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1396, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1396, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Andrews.

SCRep. 442 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1091

The purpose of this bill is to assure that when prehistoric or historic human remains are discovered, they are protected until examined by an anthropologist after which they must then be reburied on the site, reinterred in another approved site, or placed in an approved facility for curation.

Your Committee finds that the establishment of appropriate procedures to handle the disposition of historic and prehistoric remains would not only provide the Department of Land and Natural Resources with valuable information regarding Hawaiian burial sites, but would also afford the Office of Hawaiian Affairs the opportunity to insure that ancestral remains are properly interred.

Your Committee heard testimony in favor of the intent of this bill from the Department of Land and Natural Resources (DLNR), the Sierra Club, the Office of Hawaiian Affairs (OHA), the Hawaiian Civic Clubs and the Society for Hawaiian Archaeology. DLNR, OHA, and the Society for Hawaiian Archaeology all testified that OHA should be directly involved in decisions involving the disposition of the remains. However DLNR also pointed out that without a time limit a project might be halted indefinitely until an inspection of the site was completed and a disposition determination made. The DLNR further noted that in order to meet the mandate of the bill, an additional archaeological staff position might be needed.

The Construction Industry Legislative Organization (CILO) testified in opposition to the bill because it gave no time limit during which activities in an area of a finding must cease to prevent damage to the remains. Such possible lengthy delays could be costly to a construction project.

Based upon the testimony provided, your Committee has amended the bill to balance the positive aspects of the bill with the need for expeditious procedures to allow for resumption of work at the construction or excavation site at which the remains are discovered.

As amended, the bill provides that the Office of Hawaiian Affairs shall be involved at each step from examination of the remains to the decision of proper disposition of the remains. Alternate dispositions were also added. The bill was further amended to reflect the concerns of the DLNR and CILO by mandating that the DLNR make a final determination of disposition within 24 hours after the finding was reported.

In response to testimony from the Department of Land and Natural Resources that one additional staff position and inter-island travel funding would be required to implement the new procedures, your Committee has inserted an appropriation of \$43,900.

Additionally, your Committee (1) amended the penalty provision in Section 6E-11 from a Class C felony to a misdemeanor to provide consistency with other penalties imposed by the Department of Land and Natural Resources; (2) changed the mandate that an archaeologist examine the remains to a mandate that an anthropologist examine the remains; and (3) provided that, upon finding human remains, the appropriate law enforcement agency must be notified.

Your Committee has also made some technical, nonsubstantive amendments 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. 1091, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1091, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.

SCRep. 443 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 743

The purpose of this bill is to permit counties to establish tax increment districts for planned high technology parks or telecommunications developments.

Currently, the counties are only authorized to establish tax increment districts to implement redevelopment or community development plans. This bill, as received by your Committee, would expand the county authority to designate such districts, thereby extending the benefits of tax increment financing to fund the costs of infrastructure and other improvements to those projects located in high technology parks and telecommunications developments.

Your Committee finds that high technology parks and telecommunications develop-

ments can provide significant economic benefits to a county by generating additional revenues and providing increased employment opportunities. Your Committee further finds that these financial incentives will help attract high technology firms to occupy these developments by helping to offset the costs of relocating to Hawaii or building new facilities.

Representatives from the Department of Planning and Economic Development, the High Technology Development Corporation, the Economic Development Corporation of Honolulu, the Maui Economic Development Board, the Hawaii Island Economic Development Board, and the Economic Development Council of the Chamber of Commerce testified in favor of this measure.

Upon further consideration, your Committee agrees that providing additional county power to fully utilize this innovative financing tool would be in the public interest and has amended this bill by expanding the scope of county authority to designate a tax increment district to any area which the county deems appropriate. Other technical, nonsubstantive amendments were made 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. 743, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 743, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Andrews.

SCRep. 444 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 929 (Majority)

The purpose of this bill is to appropriate the sum of \$125,000 for the fiscal year 1987-88 for a grant-in-aid to contract work to preserve and make improvements at Kamao Point, Kona.

Testimony in support of the bill was received from the DLNR, The State Foundation on Culture and the Arts, and the Kahua Na'au A'o ma Pu'uhonua o Honaunua NHP, Inc.

The Department of Land and Natural Resources is currently in the process of preparing an Environmental Impact Statement to address the removal of large exotic trees which are impacting the historic sites. Any major clearing would open the area to public visitation, which presents concerns about resource management and protection. The Department of Land and Natural Resources therefore recommended in its testimony to extend the funding to two fiscal years.

Your Committee believes that the area should be stabilized and redignified as a historic site and not developed as a park with modern amenities. The party to perform the work shall be determined by DPED, and might be Kahua Na'au, Friends of Kamao Point, Alu Like, or some other responsible and sensitive group.

Your Committee, upon consideration, has amended this bill to extend the grant-in-aid to 1988-89.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 929, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 929, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.
(Representative Say did not concur.)

SCRep. 445 Agriculture on H.B. No. 450

The purpose of this bill is to appropriate \$573,828 for maximizing the efficiency of the State's plant quarantine program by providing the Plant Quarantine Branch of the Department of Agriculture with the necessary staff, equipment, and vehicles required to upgrade its statewide program.

Your Committee finds that with this appropriation, the Department will be able

to institute twenty-four hour surveillance at the Honolulu International Airport, daily inspectional surveillance at military bases and inter-island aircraft facilities on Oahu, to meet workload increases at neighbor island airports and seaports, and to adequately assume its responsibility of preventing the introduction of unwanted and prohibited plants and animals in order to protect and perpetuate the integrity of the State's environment, agriculture, and natural resources.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 450, 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.

SCRep. 446 Health on H.B. No. 778

The purpose of this bill is to appropriate \$329,216 in each of the next two fiscal years to expand short-term inpatient psychiatric care for children ages four to twelve to a 24 hours-a-day, seven days-a-week basis, and to provide a permanent staff for this purpose.

Testimony indicated that at present children in the inpatient psychiatric care unit at Leahi Hospital must return home or go to foster homes on the weekends since the unit is staffed and funded for only five days a week. The expansion of hours and creation of a permanent staff would provide greater continuity of care, which might shorten the length of stay for patients. It will also increase the ability to serve Neighbor Island children.

Your Committee agrees with the need to expand psychiatric care services to our communities' children, but required further information from the Department of Health concerning issues raised and their recommendations before an appropriation figure can be recommended. Your Committee has therefore amended this bill by deleting the appropriation and staffing figures and leaving the amounts blank for further consideration.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 778, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 778, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Ige, Leong and Peters.

SCRep. 447 Health on H.B. No. 776

The purpose of this bill is to appropriate \$2,243,100 in each of the next two fiscal years to establish a statewide outpatient treatment program for adolescents.

Testimony indicated that a treatment option is needed for individuals whose problems are too severe for special education programs but are not appropriate for psychiatric institutionalization. There are a number of adolescents in our community who need the type of treatment such a program would offer, particularly on the Neighbor Islands where the resources available are more limited than on Oahu.

Your Committee agrees that there is a need for such a program, but requires further information from the Department of Health regarding the issues raised and their recommendations before a specific dollar amount can be recommended. Therefore, the bill has been amended by deleting the appropriation and staffing figures and leaving the numbers to be determined after further consideration.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 776, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 776, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives M. Ige, Leong and Peters.

SCRep. 448 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 563

The purpose of this bill is to make public lands available for Hawaii's residents who were dispossessed or displaced from their homes as a result of the recent volcanic eruptions on the island of Hawaii.

Testimony presented to your Committee expressed the need for a mechanism to assist many of Hawaii's residents who have sustained substantial and devastating losses as a result of the recent volcanic eruptions. Some of these residents may still experience dispossession or displacement from their homes.

Your Committee amended the bill to provide that the relocation and rehabilitation assistance be limited to victims of the volcanic eruptions on the island of Hawaii which began on January 3, 1983.

Additionally, your Committee amended the bill by adding several new sections to the bill. Section 2 defines those victims which would be eligible for assistance. Section 4 provides general procedures for applying for assistance. Section 5 creates in the State treasury a special fund to be designated as the "special land development fund," and Section 6 makes an appropriation of \$1,500,000.00 for fiscal year 1987-1988 to the special land development fund.

Finally, your Committee replaced in paragraph (4) of the terms and conditions in the disposition of public lands the Small Business Administration with the more appropriate Farmer's Home Administration.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 563, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 563, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Honda and Tajiri.

SCRep. 449 Finance on H.B. No. 1173

The purpose of this bill is to increase the fee for licensing dogs to meet the increased cost of administration.

Presently, H.R.S. §143-C allows the county to charge a sum of 10 cents for the replacement of the metal license dog tag. This fee has not changed since its enactment in 1941. Since the cost per tag is presently 15 cents and the administrative and computer cost is approximately 10 cents, the counties are required to absorb the difference. This bill will authorize each county to establish the tag fee to be commensurate with the rising cost of purchasing the metal tags and administering the dog licensing program. Until such action is taken by a county, this bill increases the fee to 25 cents.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1173 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. 450 Finance on S.B. No. 263

The purpose of this bill is to increase the efficiency and effectiveness of the Legislature.

Your Committee finds that no adjustment has been made to the legislative allowance since 1981 although inflation has steadily increased the cost of living. Your Committee finds that an adjustment in the annual allowance is warranted at this time. It is the recommendation of your Committee that the annual allowance of \$2,500 be increased to \$5,000.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 263, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 451 Consumer Protection and Commerce on H.B. No. 583

The original purpose of this Act is to provide the consumer with alternative means of obtaining insurance. The Legislature finds that the consumer is burdened with the high cost of obtaining insurance.

The original purpose of this Act has been amended to address the issue of the increasing number of legislative proposals to mandate health insurance coverage for certain providers of health care or a variety of health care services as part of individual or group policies. The Legislature is aware of the fact that the cost ramifications of expanding health plan coverage is a growing public concern. The amended purpose of this Act is to provide that:

(1) The merits of any proposal to mandate coverage for a particular health service or health care provider shall be balanced against a variety of consequences to include the immediate effect upon the cost of insurance coverage and the ability of the general public to afford such coverage; and

(2) A systematic review of all legislation proposing mandated or mandatorily offered health coverage shall be required to explore all ramifications of the proposed legislation to assist the Legislature in determining whether mandating a particular coverage is in the public interest.

H.B. No. 583 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. 583, 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. 583, H.D. 1.

Signed by all members of the Committee except Representatives Andrews, Yoshimura and Medeiros.

SCRep. 452 Consumer Protection and Commerce and Judiciary on H.B. No. 786

The purpose of this Act is to allow a simplified version of deeds and other real property documents to be recorded or filed with the Bureau of Conveyances or Land Court.

H.B. No. 786 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 Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 786, as amended herein, and recommend that it be recommitted to the Committees on Consumer Protection and Commerce and Judiciary, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 786, H.D. 1.

Signed by all members of the Committees except Representatives Hagino, Peters, Shito, Yoshimura, Hemmings and Jones.

SCRep. 453 Consumer Protection and Commerce on H.B. No. 1526

The purpose of this Act is to amend the insurance laws.

H.B. No. 1526 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. 1526, 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. 1526, H.D. 1.

Signed by all members of the Committee.

SCRep. 454 Consumer Protection and Commerce on H.B. No. 1566

The purpose of this bill is to provide for the availability of insurance coverage for people living in areas exposed to natural disasters in Hawaii.

H.B. No. 1566 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill 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 be properly held on its substantive contents.

Your Committee on Consumer Protection and Commerce is in accord with the purpose and intent of H.B. No. 1566, 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. 1566, H.D. 1.

Signed by all members of the Committee except Representatives Hagino, Metcalf, Peters, Yoshimura and Jones.

SCRep. 455 Judiciary on H.B. No. 864

The purpose of this bill is to improve and strengthen the skills and overall effectiveness of the police officers in the various county police departments in the handling and the investigation of cases involving family violence by providing funds for the appropriate in-service training of these police officers.

Your Committee received H.B. No. 864 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 amended the bill to provide the substantive contents of the bill in the form attached.

Your Committee is very concerned with eliminating family violence in our community and believes it important to improve and strengthen our police department's ability to handle and investigate such cases. Your Committee believes this measure will provide the in-service training necessary to upgrade our police department's efforts in the area of combatting family violence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 864, 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 Peters, Yoshimura and Jones.

SCRep. 456 Human Services and Housing and Community Development on
H.B. No. 1515

The purpose of this bill is to rename the Department of Social Services and Housing after all of its current criminal justice and corrections functions are transferred to a new department of public safety, assign the Hawaii Housing Authority's current responsibilities for operating public housing projects to the newly named department of human services, and assign the housing financing and development functions to the Department of Planning and Economic Development.

After hearing testimony in support of the bill, your Committees find that H.B. No. 1515 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. In such case, members of the public and your Committees 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.

Your Committees have amended the bill to provide the substantive contents of the bill in long form so that another public hearing may properly be held on its substantive contents.

Your Committees on Human Services and Housing and Community Development are in accord with the intent and purpose of H.B. No. 1515, as amended herein, and recommend that it be recommitted to the Committees on Human Services and Community Development, for the purpose of holding another public hearing thereon, in the form attached hereto as H.B. No. 1515, H.D. 1.

Signed by all members of the Committees except Representatives M. Ige, Leong, Peters and Tom.

SCRep. 457 Consumer Protection and Commerce on H.B. No. 1525

The purpose of this Act is to control unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce.

H.B. No. 1525 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 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. 1525, 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. 1525, H.D. 1.

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

SCRep. 458 Consumer Protection and Commerce on H.B. No. 1859

The purpose of this bill is to establish criteria for the licensing of wastewater system operators under Chapter 444, Hawaii Revised Statutes.

H.B. No. 1859 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 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. 1859, 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. 1859, H.D. 1.

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

SCRep. 459 Judiciary on H.B. No. 6

The purpose of this bill is to ensure that all victims and witnesses of crimes are treated with dignity, respect, courtesy and compassion. This bill thus codifies a new basic "Bill of Rights" that protects victims and witnesses through the criminal justice system in as vigorous a manner as criminal defendants.

These rights include (1) notification of the final disposition of a case to the victim or his survivors; (2) notification of "major developments" for felonies (such as police deferral, or referral to the prosecutor, rejection by the prosecutor, or grand jury, trial and other significant events), and whenever the defendant is released from custody. These "rights" also include plea bargain information and notification concerning changes in appearances following service by subpoena.

Additional rights include a secure and separate waiting area during court proceedings, and expeditious return of stolen or other personal property as soon as possible following recovery.

Each county prosecutor is responsible for the enforcement of the rights, subject to enhancement by the courts without consitutional conflict.

The bill also carries a "disclaimer of liability" for a failure to carry the requirements of the bill.

Because of the broad purpose, the bill amends Sections 706-604, 706-606, 706-670, 708-802 and 710-1071, HRS, to promote its implementation. The bill amends §706-604 to allow the victim or his immediate family the opportunity to comment on the physical, psychological and financial effects of the crime on their lives. The bill amends §706-606 so that the sentencing court considers the aforementioned effects when considering the defendant's sentence.

As for parole, the bill, as amended, requires within Section 4, that the paroling authority shall provide reasonable written notice on request of the victim and a fair opportunity for the victim or his family to be heard on the issue of whether the victim or the victim's immediate family fear harm or threat of harm from the prisoner should the prisoner be released.

Representatives of the Department of Social Services and Housing, the Prosecuting Attorney from the County of Kauai, and the Hawaii Paroling Authority testified in favor of the bill.

Your Committee, however, amended the bill to delete the "against the person" reference in the definition of "crime." The original language discussing plea bargains provided for "consulting or advising" the victim about the plea bargain negotiation. The amendments, however, changed the verbs and inserted "informed about."

Finally, the bill amends Section 710-1071 relating to intimidating a witness to include his "immediate family member." The bill also "harassment" as another prohibited action, and includes the statutory definition presently in the Hawaii Penal Code.

Your Committee is in accord with the intent and purpose of H.B. No. 6, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 6, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Cachola.

SCRep. 460 Judiciary on H.B. No. 4

The purpose of this bill is to ensure fairness in elections, protect legitimate reputations of all political candidates and punish those individuals responsible for "smear" campaigns, without any intended chilling effect on the right of free speech under the First Amendment.

Your Committee held a hearing on the bill and heard testimony by the Attorney General's office, the Honolulu Prosecuting Attorney's office, the Lieutenant Governor, and Common Cause.

Your Committee is deeply concerned about "smear" tactics used during recent election campaigns. Your Committee proposes to address the problem with two basic approaches: 1) by designating election smearing to be a crime, punishable by a term of imprisonment of up to one year and a fine not to exceed \$10,000; and 2) by the creation of a Fair Campaign Practices Commission that will be responsible for developing a forum where candidates can receive a quick, unbiased hearing and resolution of complaints they may file against opponents who use unfair campaign practices.

In establishing the offense of election smearing, your Committee is mindful of the landmark case of New York Times Co. v. Sullivan (1964), 376 US 254, 11 L ed 2d 686, in which the United States Supreme Court set forth the parameters of the federal constitutional guarantees of freedom of speech and press in defamation cases. The Supreme Court held that in order for a public official to recover damages for a defamatory falsehood, there must be proof that the statement was made with "actual malice," that is, with knowledge that it was false, or with reckless disregard of whether it was false or not. This rule applies to criminal libels. Dyer v. Davis 189 So 2d 678 (1966).

Your Committee has established the offense of election smearing as a misdemeanor. Limited situations are specified as justifiable under the Act. Your Committee is confident that these two avenues will go a long way towards alleviating the problem of campaign smears.

Your Committee has incorporated the provisions of H.B. No. 1276, which propose the establishment of a Fair Campaign Practices Commission. This independent body will act as a "referee" to ensure that elections are conducted in a fair and ethical manner. This commission will develop a fair campaign practices code based on minimum standards set forth in the bill. The commission will hear and consider complaints filed by any candidate, political party, or political action committee relating to any unfair campaign practices.

Your Committee has proposed that the funding for the Commission be derived from the Hawaii election campaign fund already established under Section 11-217.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 4, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 4, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Takamine, Yoshimura and Medeiros.

SCRep. 461 Labor and Public Employment and Health on H.B. No. 1738

The purpose of this bill is to establish a comprehensive community-based program for the chronically mentally ill based on the premise that gainful employment is an integrative force in the life of every human being.

H.B. No. 1738 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general

idea as to the the purpose of the bill without specific details in long form. Your Committee have amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents.

Your Committees on Labor and Public Employment and Health are in accord with the intent and purpose of H.B. No. 1738, as amended herein, and recommend that it be recommitted to the Committees on Labor and Public Employment and Health for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 1738, H.D. 1.

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

SCRep. 462 Finance on H.B. No. 1511

The purpose of this bill is to clarify the meaning of "debt" in order to retain the state tax refund of persons who are delinquent in child support payments or who have defaulted on an educational loan note held by the United Student Aid Funds, Inc. This amendment to HRS Chapter 231-52 will clarify that a debt could be a court-ordered payment which is one month overdue or a sum exceeding \$25.00. Both conditions need not be met for the Department of Social Services and Housing to intercept the state tax refund of a debtor owing money to the State.

Your Committee has made a nonsubstantive amendment to this bill to correct an error in spelling.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1511, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1511, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 463 Finance on H.B. No. 1181

The purpose of this bill is to amend H.R.S. §52-1C to authorize the counties to charge a fee for funeral escorts.

Your Committee finds that funeral escorts consume many manhours from regularly assigned law enforcement police duties at cost borne by the counties. The cost of paying officers to escort processions and maintain vehicles used will in all probability continue to increase annually.

Your Committee agrees that authorization to the counties to charge a fee for funeral escorts is appropriate to offset this increasing government expenditure.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1181 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. 464 Finance on H.B. No. 314

The purpose of this bill is to provide a housekeeping and technical corrections measure for the exemption of amounts received for the sale of prescription drugs and prosthetic devices under the general excise tax.

The definition of "prescription drugs" was clarified in order that sales of drugs made by licensed practitioners would clearly be included under the exemption provision.

New prescriptions as well as refills of existing prescriptions would be exempt from the tax and oral as well as written prescriptions will satisfy the requirements of the law.

The definition of "prosthetic device" was expanded and clarified to include sales

made by a dealer of prosthetic devices and any replacement parts subsequently purchased for the device.

Your Committee has renumbered Sections 3 and 4 of the bill to 2 and 3. Your Committee has also amended the bill by making technical, nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 314, H.D. 1, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 314, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 465 Finance on H.B. No. 537

The purpose of this bill is to provide a housekeeping and technical corrections measure for the clear, unmistakable and orderly remittance, refund, or forgiveness of appropriate tax relief of natural disaster claimants under the State's Relief for Natural Disaster Losses Law.

A memorandum submitted by the Department of Taxation explained the measure will eliminate a potential conflict between the State and the four counties by establishing a maximum limit for a natural disaster loss claimant to recover from real property taxes. Also, it establishes a maximum limit of \$35,000 for a claimant if unused excess credits recoverable under one tax are applied against the other tax.

The bill is expected to remove any potential drain on county tax revenues should a major disaster occur in any area of the State with a high concentration of property values. The loss of county revenues could adversely affect the financial condition of the county or counties involved.

Your Committee has amended the bill by changing the definition of "county finance director" and made other technical nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 537, H.D. 1, as amended herein, and recommends that it pass Second Reading and be placed on calendar for Third Reading in the form attached hereto as H.B. No. 537, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 466 Ocean and Marine Resources on H.B. No. 1169

The purpose of this bill is to define a specific limit of one gallon for the taking of beach material for reasonable, noncommercial use. This will facilitate enforcement of the currently unquantified limit.

This bill also allows clearing of sand from public improvements for State and County maintenance purposes, thus streamlining the approval process.

This bill would specifically prohibit the taking of sand or other material from Hakipu'u sandbar. The sandbar is naturally accreting and developing into an open recreational area. The prohibition on taking material from this area will allow the sandbar to continue to grow in size.

Your Committee has amended the first section of the bill to clarify that the Department of Land and Natural Resources' jurisdictional authority shall extend over lands seaward of the shoreline, though they may grant variances when it is determined to be in the public interest. Such amendment would be as follows:

- (a) (e) The jurisdiction of the authority and department under this section shall not extend seaward of the shoreline. The Department of Land and Natural Resources shall exercise jurisdiction over lands seaward on the shoreline pursuant to Section 183-41 and may grant variances to this section when it is determined that the structure, activity or facility is in the public interest.

Your Committee has also amended the first section of the bill to allow the

counties to provide stricter regulations regarding the removal of sand and other materials from the shoreline. Such amendment would be as follows:

(a) (f) The counties may provide stricter regulations regarding the mining or taking of sand, coral, rocks, soil, or other beach or marine deposits from the shoreline area, or within one thousand feet seaward from the shoreline, or in water of thirty feet or less in depth in the territorial sea.

A technical, non-substantive change was made on lines 1 and 3 on the first page to correct the section of the Hawaii Revised Statutes that is referred to by this bill. This bill actually amends Section 205A-44 of the Hawaii Coastal Zone Management Law, not Section 205-33, which was repealed.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1169, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 1169, H.D. 1.

Signed by all members of the Committee.

SCRep. 467 Ocean and Marine Resources on H.B. No. 1233

The purpose of this bill is to prohibit use of any nets in Hilo Harbor, with exceptions for some types of nets to be used only for home consumption.

The Department of Land and Natural Resources testified that anglers who fish with poles and lines from the shores of Hilo Bay have complained through letters and petitions that large amounts of fish are caught by a few fishermen with gillnets. The anglers claim that gillnets deprive them of the opportunity to catch fish by capturing the fish before they come close to shore and by interfering with the anglers' lines.

The Department of Land and Natural Resources held public hearings that confirmed the outcry against gillnet users. Boaters complained of the hazards posed by gillnets set across boating channels.

Closing the inner bay to netting would conserve and restore the already short supply of fish in the area and help to equitably distribute fishing opportunity among the many fishermen of Hilo.

Commercial marine and pond operators with appropriate licenses would still be allowed to take baitfish or pua, and the use of thrownets, opae nets, crab nets, or nehu nets not longer than fifty feet for family consumption would be allowed.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of H.B. No. 1233 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 468 Ocean and Marine Resources and Water, Land Use, Development
and Hawaiian Affairs on H.B. No. 533

The purpose of this bill is to clarify that commercial marine licensees with Bait Licenses are allowed to take all baitfishes, including nehu and iao, for which an open season has been declared by the Department of Land and Natural Resources for any waters within the jurisdiction of the State.

Under current law, licensed commercial fishermen may not take baitfishes other than nehu and iao in certain areas under provisions in Section 188-35, Hawaii Revised Statutes. This exception is not consistent with Section 188-45, Hawaii Revised Statutes, that allows the taking of all baitfish species for which an open season has been declared.

The Department of Land and Natural Resources testified in favor of this bill, saying that it will make Section 188-35 consistent with existing baitfish law.

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.

The Department of Health submitted testimony in support of this bill, indicating that some boards have difficulty establishing a quorum to develop a list of candidates to fill the vacancies. The bill provides an alternate method for selecting candidates which allows community participation while maintaining participation by the remaining board members.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 887 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. 472 Health on H.B. No. 884

The purpose of this bill is to enable the Department of Health to adopt rules necessary to provide appropriate hepatitis B screening of pregnant women, including reporting and following procedures for newborns of hepatitis B carrier women.

By way of brief background, hepatitis B virus (HBV) infection leads to chronic disease in 5-10 percent of the cases. Complications include cirrhosis, cancer of the liver and death. Chronic HBV carriers can spread the disease to other susceptible people and one of the most efficient modes of HBV transmission is from an HBV carrier mother to her infant during birth. The infection rate is 70-90 percent, and 85-90 percent of the infected babies will become chronic carriers.

The maternal transmission of hepatitis B to the infant can be prevented by immunization at birth. The problem is identifying the carrier mothers so that the remedy can be applied. A study at an Oahu hospital showed that less than 50 percent of the physicians were screening pregnant women for hepatitis B.

Your Committee received testimony from the Department of Health, the Hawaii Medical Association, and other physicians in support of this bill. Testimony indicated that hepatitis B is a significant health problem in Hawaii. The hepatitis B carrier rate for Hawaii is approximately 2-4 percent, compared to a carrier rate of 0.1-0.5 for the continental United States. Hawaii's higher rate is due to immigration from the western Pacific and Asia, regions where the overall carrier rate may be as high as 15 percent.

Your Committee finds that the health and well-being of Hawaii's most precious resource, its people, must remain of paramount concern to the Legislature, and that all programs that prove to be cost-efficient and effective must be supported. In this regard, your Committee finds that the hepatitis B screening and identification procedures proposed is in the best interest of Hawaii's people.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 884 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. 473 Consumer Protection and Commerce on H.B. No. 81

The purpose of this bill is to delete the provision limiting the lien on a motor vehicle registered pursuant to Chapter 286 to \$500 for reasonable charges for the work done and materials furnished unless the consent of the legal or registered owner has been obtained.

Your Committee has received testimonies from the Hawaii Business League and from the Hawaii Automobile and Retail Gasoline Dealers Association in support of the bill. However, your Committee has considered the requirement of obtaining the consent of the registered or legal owner, which may sometimes be a bank, and which may impose an undue burden on consumers seeking auto repair jobs.

Accordingly, your Committee has amended the bill by providing that the registered owner of a motor vehicle registered pursuant to chapter 286 shall be considered the owner for purposes of this section. Your Committee has amended the bill further by deleting the word "shall" and substituting "property" in lines 6

and 8 of the bill for purposes of clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H. B. No. 81, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 81, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 474 Consumer Protection and Commerce and Judiciary on H.B. No.
105

The purpose of this bill is to make violations of Chapter 489 per se violations of Section 480-2 and to apply to Chapter 489 violations the rights and penalties available under Section 480-2.

Last year the Legislature enacted Chapter 489 making it unlawful to discriminate unfairly in public accommodations and establishing a private cause of action when a discriminatory practice occurs. This bill provides an enforcement scheme with penalties and, at the same time, allows the Office of the Attorney General and the Office of Consumer Protection to bring proceedings to enforce Chapter 489 at either of their discretion.

Your Committees have received testimonies from the Office of Consumer Protection, the Commission on the Handicapped, the American Civil Liberties Union of Hawaii, the Hawaii Centers for Independent Living, and the U. S. Coast Guard in support of the bill.

Your Committees have amended the bill for purposes of clarity by providing specific references to the rights and penalties provided for in Section 480-3.1 and 480-13 of the Hawaii Revised Statutes. It is also the intent of your Committees that the attorney's fees provided for in Section 480-13 shall also be available in a Chapter 489 violation.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H. B. No. 105, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H. B. No. 105, H. D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Yoshimura.

SCRep. 475 Consumer Protection and Commerce and Judiciary on H.B. No.
408

The purpose of this bill is to require each member of the board of directors of a horizontal property regime, the member's spouse, or the member's dependent children to disclose any income received from the owner or developer of the property or from any management company, real estate firms, or lending institutions which may have any involvement with the property. The bill further provides that the Real Estate Commission shall administer this requirement. Failure to disclose the information is a violation for which the bill establishes penalties.

Your Committees have received testimonies from the Real Estate Commission, the Hawaii Association of Realtors, attorneys who specialize in condominium laws, and other interested persons. Your Committees share the concerns presented by some of the testifiers relating to the problem of conflict of interests by members of the board of directors. However, your Committees are also concerned with the broadness of the language of the bill which may lead to enforcement problems and affect the willingness of members of associations to serve on the board of directors.

Accordingly, your Committees have amended the bill by deleting Section 1 of the bill which pertains to the disclosure provision and by requiring that the contents of the bylaws of a horizontal property regime shall provide that the director who has a conflict of interest disclose the conflict of interest prior to the start of the board meeting.

Your Committees on Consumer Protection and Commerce and Judiciary are in

accord with the intent and purpose of H.B. No. 408, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 408, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 476 Consumer Protection and Commerce and Judiciary on H.B. No. 416

The purpose of this bill is to provide that the Public Utilities Commission shall be a party to all matters appealed to the Supreme Court from an order of the Commission and to require the Commission to file the appropriate responsive briefs. The bill further provides that the designation of the Commission as a party shall not limit the participation qualified to be parties on appeal.

Procedural rulings by the Supreme Court have required the Division of Consumer Advocacy to file position briefs when it appeared to the Supreme Court that there would be no legal arguments on appeal other than those of appellant. In some cases, the Supreme Court has been without the benefits of a responsive pleading unless the Commission files "amicus curiae" briefs.

Your Committees have received testimonies from the Department of Commerce and Consumer Affairs and the Public Utilities Commission. Your Committees have considered the concerns of the Commission and disagree with its claim that it is a quasi-judicial body and, therefore, cannot be asked to argue the merits of its decision. Your Committees feel that the Commission is the best qualified party to defend its decision when the decision is appealed before the Supreme Court. The bill will also be consistent with the procedure available to federal regulatory agencies and the other state regulatory agencies.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H. B. No. 416 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 477 Judiciary on H.B. No. 58

The purpose of this bill is to amend Section 701-114 by modifying the requirement for proof as to venue.

At present, the law requires of the prosecution proof "beyond a reasonable doubt" establishing venue. H.B. No. 58 would diminish the prosecutor's burden of proof by amending the language to require proof as to venue by a preponderance of the evidence. This change requires facts supporting a reasonable inference that situs or location of the crime is in the appropriate jurisdiction.

Your Committee received testimony from the office of the Honolulu prosecuting attorney in support of this measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 58, 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 Yoshimura.

SCRep. 478 Judiciary on H.B. No. 853

The purpose of this bill is to lengthen the time period before a person convicted of the offense of abuse of family and household members may apply for an order to expunge the records.

Under the present law, a person convicted of the offense may apply for an expungement order one year after discharge of the proceedings.

The amendment is based on recommendations made by the Oahu Spouse Abuse Task Force in their report "Breaking the Cycle of Violence." In testimony before the Committee, a representative of the Task Force indicated that the typical

person convicted of this offense usually evidences a history and pattern of repeated offenses.

Your Committee also heard testimony in support of this measure from the Victim/Witness Kokua Services and the Waikiki Community Center. All persons who testified felt the present time period of one year was too short a time period since most individuals convicted of the offense have a history of such behavior. Also, the short time period has resulted in habitual offenders receiving lenient sentences because record of past offenses were expunged.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 853 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the House except Representative Peters.

SCRep. 479 Judiciary on H.B. No. 989

The purpose of this bill is to amend Section 621C-2, Hawaii Revised Statutes, to provide that district court judges as well as circuit court judges, may issue orders requiring certain persons to testify in official proceedings if they refuse to do so based on the privilege against self incrimination. In addition, this bill clarifies that the application must be written. The bill also deletes the reference to use immunity which the Hawaii Supreme Court ruled unconstitutional in 1980 in State v. Miyasaki (62 Haw. 269).

Your Committee received testimony from the Honolulu prosecuting attorney's office. The prosecutor indicated that the present witness immunity law enacted in 1978 was unclear as to the reason for specifying only circuit court judges. Allowing district court judges to issue orders compelling testimony makes the bill consistent with actual practice.

The office of the public defender expressed concern that the bill violates the guarantee of due process of law under the United States and Hawaii Constitutions. Your Committee, however, believes witness immunity is a tool of the prosecution, not the defense. Other civil and criminal remedies address prosecutorial misconduct.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 989 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 480 Judiciary on H.B. No. 1000

The purpose of this bill is to clarify the definition of Promoting a Dangerous Drug in the Second Degree in Section 712-1242, HRS, to bring it into conformity with Section 712-1241, Promoting a Dangerous Drug in the First Degree.

Your Committee notes that the criminal law relating to drug and intoxicating compound offenses was amended in Act 112 of 1979 by adding a definition of "dosage unit" to section 712-1240, HRS. Section 712-1242, however, was not amended to include a reference to dosage units. Since both of these actions aim to curb the promotion of dangerous drugs within the State, this failure appears to be due to an oversight.

The Legislature in 1979 found that drugs, while commonly sold in tablets, capsules, or other forms covered by existing drug law, are also distributed and sold in forms which are not covered. The Legislature believed that the addition of the definition of "dosage unit" would lessen the promotion of dangerous drugs within the State.

Accordingly, Act 112 of 1979 amended Section 712-1241, HRS, to provide that a person commits the offense of promoting a dangerous drug in the first degree if he knowingly distributes 50 or more dosage units containing one or more dangerous drug.

Your Committee finds that amending Section 1242, HRS, to bring it into confor-

mance with Section 712-1241, HRS, will correct an apparent oversight which has resulted in an inconsistency in our drug laws.

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

Signed by all members of the Committee.

SCRep. 481 Judiciary on H.B. No. 1267

The purpose of this bill is to amend Article II, Section 1, of the Hawaii Constitution to change the age qualification for voting to include all those who shall have attained the age of eighteen on or before December 31, of the the in which an election is held.

The present constitutional provision requires that a person shall have attained the age of eighteen years prior to participating in an election as provided by law.

Your Committee heard testimony in favor of this measure from the Honorable Benjamin Cayetano, Lieutenant Governor of the State of Hawaii.

Your Committee finds that passage of this bill would enhance citizen participation in government by enlarging Hawaii's electoral base to include everyone who shall have attained legal age before the commencement of the first legislative session following the election and would enjoy greater participation by young people in the election process.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1267, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 482 Judiciary on H.B. No. 1270

The purpose of this bill is to clear up confusing and ambiguous language in the current law as it relates to the re-registration of persons moving within the State.

Testimony was received from the Office of the Lieutenant Governor and the Association of County Clerks in support of this measure.

Currently, the statutes are unclear regarding when a person must re-register and it allows voters to vote in the wrong district.

This bill makes the following changes:

(1) A new subsection is added to provide that names of voters be removed where a voter notification is returned and there is no forwarding address.

(2) Sections 11-18 and 11-19 are amended to require voters to register by the appropriate registration deadline for all voter registration. This change makes registration consistent whether the move is between precincts or between counties.

(3) Section 11-21 is amended to clarify that a voter who has not re-registered by the appropriate registration deadline pursuant to Sections 11-18 and 11-19 will not be allowed to vote in the election.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1270, 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 Cachola.

SCRep. 483 Judiciary on H.B. No. 1907

The purpose of this bill is to provide an alternative to the current system of civil process service by providing for the licensure of private, fully qualified and trained civil process servers.

Your Committee heard favorable testimony from the State Sheriff who stated that this bill will enable expeditious and efficient service of process for attorneys and citizens through the use of trained process servers who are licensed by the State. At the same time, cost savings would result because fewer clerical staff will be needed to service the serving deputies and none would be needed to account for the fees paid to serving officers. Your Committee finds that accounting for these fees presently requires detailed and extensive records management. Since the new system would eliminate the need for a supervising agency to collect and account for the fees paid for service of process, the Judiciary could assimilate the clerical positions freed as a result of this measure into other needed clerical functions within the Judiciary.

Your Committee further finds that this measure is consistent with the philosophy that government should not be performing those functions that could be performed as well or better by the private sector.

Your Committee amended proposed Section -2 to specify that such qualifications should include the attendance in, and satisfactory completion of a training program in the service of process and applicable laws, rules and regulations and that said training program shall be no less than eighty (80) hours in duration.

Based on testimony received from the State Sheriff, your Committee amended Section 607-8, HRS, to provide that for all political subdivisions or municipalities within the State with a population of 500,000 or more, a flat transportation fee of ten dollars (\$10) will be allowed in lieu of the current mileage allowance.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1907, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1907, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Cachola.

SCRep. 484 Judiciary on H.B. No. 849

The purpose of this bill is to expand the grounds upon which a person may petition the Family Court for a protective order in domestic abuse cases under Chapter 586, HRS.

Under the present law, the petition for protective order must allege that physical abuse may have occurred or that threats of physical abuse are imminent.

The bill's proposed revision is based on recommendations made by the Oahu Spouse Abuse Task Force in their report "Breaking the Cycle of Violence." The bill revises §586-3, HRS, to allow a person to petition for a protective order under circumstances where extreme psychological abuse or malicious property damage is imminent.

Your Committee heard testimony in support of the bill from representatives of the Victim/Witness Kokua Services, Child and Family Services, Waikiki Community Center and the Oahu Spouse Abuse Task Force.

After reviewing the testimony presented, your Committee amended the bill to specifically define "extreme psychological abuse" and "malicious property damage". Further amendments add the aforementioned terms to the definition section in the statute, and include the terms as forms of "domestic abuse".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 849 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 Yoshimura.

SCRep. 485 Judiciary on H.B. No. 59

The purpose of this bill is to amend Sections 19-6 and 291C-77, Hawaii Revised Statutes, to specify the nature of the prohibited conduct and the time period within which campaign activities may be conducted in the vicinity of any polling place.

This bill would amend the existing law by altering the language to specify that the period of restriction commences one hour before polls open and ends at their close. This bill further amends Section 291C-77, HRS, by inserting a definition for campaign activities.

As received by your Committee, this bill additionally amends the law by deleting Section 19-6(7) defining campaign activities. While agreeing with the intent of the bill to clarify the law relating to campaign violations, your Committee believes that retention of the original definition better serves this purpose.

Testimony was received from the office of the Lieutenant Governor of Hawaii recommending that the definition of campaign activities be retained in Section 19-6(7).

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 59, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 59, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Yoshimura.

SCRep. 486 Judiciary on H.B. No. 3

The purpose of this bill is to conform the enumerated sections of the Hawaii Penal Code to the recent changes in the numbering and naming of certain statutory crimes. The bill also inserts erroneously omitted language.

This bill amends Section 701-107(1), Hawaii Revised Statutes (hereinafter "HRS") to include the new murder in the first and second degrees and their attempts as crimes within the felony grade (hereinafter collectively referred to as "new murder crimes"). The bill also amends the following sections of the Hawaii Penal Code to include the new murder crimes (unless otherwise noted, all sections hereinafter numbered refer to the HRS):

Section 701-108(1), Relating to Time Limitations (includes prosecution of new murder crimes as commencing at any time);

Section 706-610(1), Relating to Classes of Felonies (excepts the new murder crimes which lack a specification of class, from class C felonies);

Section 707-702(2), Relating to Manslaughter (substitutes new murder crimes for murder where the defense of extreme mental or emotional distress reduces offense to manslaughter); and

Section 706-640(1), Relating to Authorized Fines (includes new murder crimes with class A felonies subject to maximum fine of \$50,000).

With the enactment of the new murder crimes came a separate punishment. This bill clarifies Section 706-656(1), by specifically referring to the Governor as the actor who commutes the life prison term without parole. The bill, however, also adds to Section 706-656(1) and (2) that repeat offenders under Section 706-606.5, shall serve at least the applicable mandatory minimum prison term.

The repeat offender statute receives the most housekeeping revisions under the bill. The new murder crimes under this bill impact on Section 706-606.5 by increasing the mandatory minimum term where murder in the second degree or its attempt is the present or instant conviction. The bill adds ten (10), twenty (20), and thirty (30) year minimum terms where the prior convictions number one, two or three, respectively. The twenty year period within which the mandatory minimum may be imposed for a class A felony is applied to the other new murder crimes.

As concerns prior felonies committed in another jurisdiction or state such as

California, the bill adds language clarifying that when these foreign crimes are felonies under the Hawaii Penal Code, (1) they are "prior felonies" within reach of the statute, and (2) the period within which the repeat offender statute applies is the maximum possible prison term of the prior foreign conviction. The present law contains no provisions for such a period.

The bill also makes clear by deletion that the repeat offender statute only needs one felony previous to the felony for which the defendant is sentenced under the statute. The change clarifies the present law which defines a "prior" felony as one felony after a "previous" felony.

Finally, the bill expands the enumerated list of felonies which trigger the statute's application to include four pre-1986 Legislature crimes: Rape in the third degree, sodomy in the third degree, sexual abuse in the first degree and theft in the first degree. The new murder crimes are added to the list, as well as convictions for "attempts" for all classes of felonies.

A recent Hawaii Appellate decision reversed a conviction for sexual abuse because the statute failed to differentiate between clothes over sexual parts of a person. This bill adds both "clothed" and "unclothed" to Section 707-700.

Last but not least, this bill clarifies the recent recodification of the sexual assault crimes, Section 707-730, -731, and -732, to exempt those doctors who touch the body pursuant to their licensed medical specialty. The bill also adds "sexual contact by strong compulsion" that the Legislature inadvertently omitted from the recodified law.

Under the present law, the defects raised through Appellate cases, or non-integration of the new or recodified crimes into the basic penal principles creates voids in prosecution of certain offenses and inconsistent sentences.

Your Committee on Judiciary agrees with the amendments contained in this bill and rigorously analyzed its impact.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 487 Judiciary on H.B. No. 1707

The purpose of this bill is to amend the state laws on child support.

H.B. No. 1707 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used to introduce a bill containing only a general idea as to the purpose of the bill without specific details in long form. Your Committee on Human Services has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may be properly held on its substantive contents. Members of the public cannot be duly appraised, 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. 1707, 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. 1707, H.D. 1.

Signed by all members of the Committee except Representatives Andrews, Cachola, Hirono, Shito, Yoshimura and Jones.

SCRep. 488 Finance on H.B. No. 210

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

been made.

Your Committee concurs with the finding of House Standing Committee Report No. 52.

Your Committee approves the appropriation of \$512,561.58 for criminal injuries compensation.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 210 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 489 Finance on H.B. No. 1324

The purpose of this bill is to exempt food vouchers given by the Department of Health's Women Infant and Children Nutrition Program (WIC) from gross income subject to the State general excise taxes.

Presently, Section 237-24, HRS, relating to amounts not taxable, does not provide an exclusion from the gross income subject to the general excise tax for the amounts received on food purchases made with U.S. Department of Agriculture Special Supplemental Food Program for Women, Infants and Children (WIC) food vouchers.

The bill proposes to amend Section 237-24(23), HRS, by adding a paragraph to exclude from gross income, amounts received on purchases made with WIC food vouchers. The stated justification for the amendment is to conform with the provisions of P.L. 99-500 and P.L. 99-501, as amended by the School Lunch and Child Nutrition Amendments of 1986, which would prohibit a State's participation in the WIC program if a sales tax is collected on the WIC food voucher purchases.

Testimony from the Department of Taxation indicates that a continued pass on of the general excise tax on purchases made with WIC vouchers would prohibit Hawaii's participation in the program. The loss of participation in this program would have significant negative impact on the public health of the people of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1324 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 490 Finance on H.B. No. 1331

The purpose of this bill is to clarify the Child Support Enforcement Agency's authority to maintain trust accounts for the collection and disbursement of child support payments. Act 332, SLH 1986, transferred the duties of the Judiciary relating to the collection and disbursement of court ordered child support to the Child Support Enforcement Agency. Included in this transfer were the fiscal powers exercised by the Judiciary in maintaining a special account for child support funds. This bill will provide the explicit legal authority required by the Child Support Enforcement Agency to maintain such a special fund.

At the present time, HRS Section 37-54 generally requires that moneys that come into the possession of a state officer or employee who has the responsibility for the initial custody, accountability, and disposition of the moneys be deposited in the state treasury. The use of this process would entail delays in the disbursement of child support payments and would possibly generate lawsuits by custodial parents who do not receive their support payments in a timely manner. The passage of this bill will make it possible for the Child Support Enforcement Agency to provide timely service to the thousands of persons receiving court ordered child support payments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1331 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 491 Consumer Protection and Commerce on H.B. No. 1935

The purpose of this bill is to provide a major revision of the Hawaii Business Corporation Act, the Hawaii Professional Corporation Act, and the Hawaii Non-profit Corporation Act with corrections of fee schedules, consolidation of filing requirements, clarification of name availability according to current standards, permission for the reinstatement of involuntary corporate dissolutions, and other technical changes. This bill provides only technical changes, not substantive changes, and repeals Chapters 416, 417, and 418, Hawaii Revised Statutes.

Your Committee has received testimony from the Business Registration Division of the Department of Commerce and Consumer Affairs in support of the bill. The Division believes that it is imperative that these technical amendments be done in order for the public, as well as the Division, to prepare its final phase of the implementation of the corporation codes which includes the preparation of new forms, rule changes for the Division, and the notification to attorneys and members of the public who file documents with the Division.

Your Committee has amended the bill by providing that a shareholder of a professional corporation may transfer shares to a revocable living or inter vivos trust, providing that the professional retains the unilateral right of revocation, is the sole beneficiary during the professional's life-time, and is either a trustee or co-trustee of the trust. This amendment has resulted from an oversight of the Division.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1935, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1935, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hagino, Metcalf and Peters.

SCRep. 492 Consumer Protection and Commerce on H.B. No. 1257

The purpose of this bill is to establish that gross negligence and incompetence are some of the acts by which the Board of Medical Examiners may revoke, suspend, or deny a license to practice medicine and surgery.

Current law provides that professional misconduct, gross carelessness, or manifest incapacity in the practice of medicine or surgery, or negligence or incompetence may be some of the acts for which disciplinary actions may be taken against a physician by the Board.

Your Committee has received testimonies from the Board of Medical Examiners and the Hawaii Medical Association in support of the bill.

It is the intent of your Committee that the amendments to the law will further clarify actionable conduct for which a physician may be disciplined.

Your Committee has amended the bill by requiring that multiple instances of negligence shall be grounds for discipline by the Board. Your Committee has been informed that the Regulated Industries Complaint Office (RICO) of the Department of Commerce and Consumer Affairs will not review one episode of negligence but will investigate adverse decisions by the Medical Claim Conciliation Panel, including actionable negligence, and all cases which have been filed in court for allegations of gross negligence.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1257, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1257, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

SCRep. 493 Consumer Protection and Commerce on H.B. No. 1531

The purpose of this bill is to remove the \$20,000 limit on credit life insurance available to borrowers.

Your Committee has received testimonies from the Department of Commerce and Consumer Affairs, the Hawaii League of Savings Institutions, the Hawaii Financial Services Association, and the Hawaii State Association of Life Underwriters.

The removal of the limit will be consistent with section 435-4(a), Hawaii Revised Statutes, which pertains to the maximum amount of credit life insurance. Furthermore, the \$20,000 ceiling was set many years ago when most loans were below \$20,000.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1531 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 Hagino.

SCRep. 494 Consumer Protection and Commerce on H.B. No. 1529

The purpose of this bill is to authorize industrial loan companies to charge fees for insurance premiums comparable to the filing fee provided for in paragraph (2) of subsection (e) in Section 226.4 of Regulation Z of the Board of Governors of the Federal Reserve System. The bill also permits industrial loan companies to charge for premiums paid for insuring other personal property not used as a security on a contract and for premiums for involuntary unemployment insurance.

Your Committee has received testimonies from the Commissioner of Financial Institutions and the Hawaii Financial Services Association in support of the bill. The bill conforms with recent changes to the Federal Trade Commission's credit practices.

Your Committee has amended the bill by deleting the provision allowing industrial loan companies the right to charge fees for insurance premiums allowed in paragraph (2) of subsection (e) of Section 226.4, Regulation Z, because your Committee has been informed that this provision will not be beneficial to borrowers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1529, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1529, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

SCRep. 495 Consumer Protection and Commerce on H.B. No. 1656

The purpose of this bill is to increase the amount of a loan or investment from \$100,000 to \$300,000 which must be reviewed and approved by a bank's Board of Directors.

Your Committee has received testimony from the Department of Commerce and Consumer Affairs in support of the bill.

Your Committee notes that the amount of \$100,000 was set by the 1978 Legislature and that the amount is now outdated and fails to reflect the effects of inflation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1656 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 Hagino.

SCRep. 496 Consumer Protection and Commerce on H.B. No. 1377

The purpose of this bill is to authorize any building and loan association eligible under the National Housing Act or the Federal Deposit Insurance Act to insure any of its accounts from either the Federal Deposit Insurance Act (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

Your Committee has received testimonies from the Department of Commerce and Consumer Affairs and from a savings and loan company in support of the bill. Your Committee has been informed that because of its current financial condition, the FSLIC has imposed on insured institutions a special assessment, which has the effect of increasing a thrift's annual payment to the FSLIC by 150 percent. The FSLIC has tried also to restrict thrift powers, especially powers authorized for state-chartered institutions. This bill will provide an institution with an alternative to the FSLIC.

Your Committee has amended the bill with technical, nonsubstantive corrections to conform the bill to the Ramseyer format.

Your Committee on Consumer Protection and Commerce is in accord with intent and purpose of H.B. No. 1377, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1377, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 497 Consumer Protection and Commerce on H.B. No. 1073

The purpose of this bill is to include the following activities as unfair claim settlement practices:

(1) Failure to offer payment within thirty calendar days of affirmation of liability, if the amount of the claim has been determined and is not in dispute;

(2) Failure to provide the insured or beneficiary with a reasonable written explanation for any delay, on every claim remaining unresolved for thirty days from the date it was reported; and

(3) Indicating to the insured on any payment draft, check, or accompanying letter, that the payment is final, or is a release of claim, if additional benefits are probable.

The bill also provides that if any insurance company fails to pay, without reasonable cause, a judgment for a violation within thirty calendar days, it shall be charged interest of one and one-half per cent a month on all amounts delinquent.

Your Committee received testimony from the Insurance Commissioner in support of this bill, indicating that the majority of insurance claims are for motor vehicle accidents, and that the majority of these claims involve no-fault benefits, which already statutorily require communication with the injured party and payment within thirty days. This bill will establish the same standards for other insurance claims.

Your Committee made some technical, nonsubstantive changes to the bill for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1073, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1073, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 498 Consumer Protection and Commerce on H.B. No. 854

The purpose of this bill is to authorize the Insurance Commissioner to establish and regulate long-term care insurance.

More specifically, the bill provides as follows:

1. Includes the definition of "long-term care insurance" as a group or individual policies for medically necessary services provided in a setting other than an acute care unit of a hospital;

2. Prohibits advertising unless it complies with the requirements of the bill;
3. Allows the commissioner to adopt rules for full and fair disclosures of the terms and conditions of long-term care insurance contracts;
4. Provides that no long-term care insurance policy may be cancelled or terminated for a preexisting condition under certain circumstances;
5. Provides that long-term insurance for benefits only following institutionalization may not condition the benefits;
6. Provides that the commissioner may adopt rules establishing loss ratio standards for long-term care insurance policies;
7. Requires the insurer to deliver to an applicant an outline of coverage;
8. Creates a right to return the policy within ten days of delivery and to have the premium refunded;
9. Authorizes the commissioner to adopt rules.

Your Committee has received testimony in support of the bill from the Insurance Commissioner, the Founders' Group of Kokua Council, the Executive Office on Aging, the Hawaii State Legislative Committee of the American Association of Retired Persons, the Healthcare Association of Hawaii, and the Hawaii Association for Home Care.

The bill is made pursuant to a model state legislation developed by the Advisory Committee on Long-Term Care of the National Association of Insurance Commissioners. The increasing cost of medical care and the constraints on public funding for medical care have increased the financial burden of the elderly. Moreover, Medicare, the federally administered health insurance program for the elderly, does not provide adequate coverage for long-term intermediate and custodial care. Medicare provides for acute and skilled nursing care, but not for more chronic forms of long-term care. Your Committee has concluded that long-term care insurance will benefit the public.

Your Committee has amended the bill with technical, nonsubstantive corrections and by including "and subsection (c)" on page 7, line 15, of the bill to include the situation covered by that subsection.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H. B. No. 854, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 854, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

SCRep. 499 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1889

The purpose of this bill is to allow the Department of Land and Natural Resources to issue revocable permits for examination of prehistoric and historic sites, and performance of archaeological activity on public and private lands. The bill also prohibits examination, excavation or gathering of objects until the permit is granted by the Department, and requires that activities be carried out under general supervision of the Department. Reports of activities shall be distributed to the Department and the University of Hawaii.

Your Committee finds that regulation of archaeological activity in the state would allow the department to track all such work and obtain reports on the results of the work. The implicit ends of this bill are desirable, but concerns have been raised as to whether permits are the most appropriate way to regulate such activity. Your Committee, therefore, has opted to include the regulation of archaeological activity as another power and duty of the Department of Land and Natural Resources, rather than mandate a permitting mechanism.

Your Committee therefore has amended the bill to include a new subsection for Section 6E-3, HRS, empowering the Department to "regulate archaeological activities throughout the State."

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 1889, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as H.B. No. 1889, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 500 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 611 (Majority)

The purpose of this bill is to adopt the koa, Acacia Koa, as the official tree of the State of Hawaii rather than the kukui, Aleurites Moluccana.

Your Committee has decided that it is appropriate to have both trees represent the State of Hawaii.

Your Committee, therefore, has amended the bill to designate both the koa and the kukui trees as the official State trees.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the purpose and intent of H.B. No. 611, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 611, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representatives Hiraki, Isbell, O'Kieffe and Pfeil did not concur.)

SCRep. 501 Water, Land Use, Development and Hawaiian Affairs on H.B.
 No. 534

The purpose of this bill is to permit the Department of Land and Natural Resources to issue permits for collecting and/or controlling wildlife species at night (one-half hour after sunset to one-half hour before sunrise) for purposes of damage control, prevention of nuisance, health hazard, scientific research, education, or distribution to different localities in the State.

At present, it is illegal to take or pursue any game bird, game mammal, wild bird, or wild mammal at night. Technically, control or collection of wildlife at night, which is often the most effective method, is not permitted. Allowing night hunting under permit would help the department alleviate problems of crop damage, nuisance or health hazards, and allow flexibility in scientific, educational, or animal distribution concerns.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the purpose and intent of H.B. 534 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 502 Human Services on H.B. No. 430

The purpose of this bill is to establish the right of every physically handicapped person to use a life jacket in a public swimming pool.

Currently, floatation devices are generally not permitted in public swimming pools because of the possibility of abuse by children, although in Honolulu case-by-case exceptions can be made for a disabled child. Rather than relying on the discretion of pool managers, this bill would standardize the practice statewide of allowing all physically handicapped persons to use a life jacket in public swimming pools.

Your Committee received testimony in support of the bill from the Commission on the Handicapped and Hawaii Centers for Independent Living. Testimony indicated that floatation devices are essential safety devices for most physically handicapped persons. In most cases physically handicapped persons would choose not to swim without the aid of a floatation device. However, in some cases a handicapped person may choose to swim anyway, and thus be exposed to a greater possibility of drowning. By affirming the rights of disabled persons to equal access to

public recreational opportunities, this bill helps to ensure that they may lead full, productive lives.

While agreeing with the overall intent of the bill, the Commission on the Handicapped recommended two amendments: (1) to allow the use of all types of floatation devices rather than only life jackets, and (2) to provide for enforcement of the substance of the bill through the adoption of rules.

Therefore, your Committee has amended Section 1 of the bill as follows:

(1) Lines 7, 11, and 14 on page 2 by adding the words "or other floatation device" after the word "life jacket", and

(2) Following line 14, on page 2 by adding a requirement that the Director of Social Services adopt the necessary rules.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 430, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 430, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 503 Human Services on H.B. No. 1328

The purpose of this bill is to amend Section 346-71(a), HRS, to authorize the Department of Social Services and Housing (DSSH) to adopt rules for the General Assistance (GA) program, a state funded financial assistance program, disqualifying an assistance unit from receiving general assistance when a member of the assistance unit receives lump sum income.

Your Committee received testimony from the DSSH in support of this measure indicating that in July 1982, DSSH implemented mandatory federal regulations disqualifying an assistance unit from receiving financial assistance for the period of time determined by dividing the sum of the lump sum and other income by the assistance unit's monthly standard of assistance for all financial assistance programs. The DSSH adopts comparable rules for federally funded and state funded programs to ensure equal treatment for all welfare recipients. However, in May 1986, the First Circuit Court, in the court suit Puana vs. Sunn, Civil No. 85-4637, ruled that the DSSH did not have the legal authority to apply the lump sum rule to single GA recipients residing on Oahu.

Your Committee believes that the passage of this bill, which specifies that the lump sum rule is also applicable to all GA recipients, will bring about equity in the amount of benefits provided to all financial assistance recipients, and will support and protect the DSSH from future litigation.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1328 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 Leong and Metcalf.

SCRep. 504 Human Services on H.B. No. 1340

The purpose of this bill is to amend Section 349C-1, HRS, to redefine "elderly person" from those who are age 65 and over to those who are age 60 and over.

Your Committee finds from testimony presented that service providers are encouraged to report cases of elderly abuse and neglect to the Department of Social Services and Housing, but those cases under the age of 65 are only recorded. The Department has no authorization to provide any assistance for those between 60 and 64, except where clients are welfare eligible. In Hawaii there are more than 30,000 people in this age group. It is important that they be offered equal protection under the elderly abuse and neglect law.

Your Committee also finds that this change will bring the Hawaii State law into

conformity with Title III of the Older Americans Act which mandates that services be provided to persons age 60 and older.

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

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1340, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1340, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 505 Human Services on H.B. No. 234

The purpose of this bill is to amend Section 346-71(b), HRS to provide a) that the licensed physician who determines and certifies that a disabled person is unable to engage in any substantial gainful employment because of a physical or mental impairment, shall also prescribe treatment for the person determined to be impaired, and b) that the disabled person shall obtain an agreement for admittance by a licensed special treatment facility as defined in Section 334-1, HRS, in order for the disabled person to be eligible for general assistance.

Your Committee heard testimony expressing reservations about the requirement that all disabled persons be admitted to a licensed special treatment facility as a condition of eligibility for receipt of general assistance because of a) the costs involved, b) the fact that not all disabled individuals require such treatment, and c) the lack of sufficient licensed special treatment facilities to provide services. Your Committee shares such concerns and has therefore amended the bill by deleting lines 3-11 on page 3 of the bill.

Your Committee agrees with the intent of the bill to ensure that persons determined to be impaired and needing treatment have a prescribed treatment plan to be followed and has further amended the bill on page 3, at line 2 to provide that the disabled person be required to accept and pursue medical treatment as a condition of eligibility for the receipt of general assistance.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 234, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 234, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 506 Labor and Public Employment on H.B. No. 1477

The purpose of this bill is to amend Section 121-7 of the Hawaii Revised Statutes to describe the Adjutant General as the commanding general of the "militia of the State" rather than the National Guard.

Testimony indicated that this bill is a "housekeeping" measure to make the statutes concerning the Adjutant General's duties consistent. Section 121-9 of the Hawaii Revised Statutes gives the Adjutant General supervisory responsibility over "all the forces comprising the military components of the department of defense of the State."

Substituting "militia of the State" for "national guard" in the bill is more consistent with the phrasing of the other statutory provision referred to, and clarifies the Adjutant General's duties as covering all the military components in the Department of Defense rather than just the National Guard.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 1477 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 507 Labor and Public Employment on H.B. No. 307

The purpose of this bill is to ensure the exclusion from collective bargaining of secretaries to state administrative and management personnel who are themselves excluded from collective bargaining units.

Because these secretaries perform functions which make them trusted personal assistants to administrators or managers, the inclusion in collective bargaining of such secretaries could bring about a conflict of interest. This bill will specifically exclude these secretaries from bargaining unit membership.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 307 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 508 Labor and Public Employment on H.B. No. 305

The purpose of this bill is to ensure the continued exclusion of legal counsel to State administrators from collective bargaining coverage including all attorneys in the Department of the Attorney General and other agencies using the services of legal counsel.

These attorneys, appointed to represent the public employer and management and to assist in policy formulation at top levels, often handling confidential materials, are not currently covered under collective bargaining. However, while the nature of their positions puts them in the category of those who should be excluded, no specific statutory provision exists for this exclusion.

During the first 10 years of collective bargaining the public sector unions have not questioned the exclusion of attorneys but are now taking steps to include them in bargaining units. Amending the statute to provide blanket exclusion for attorneys will insure that management's interests in this matter are protected and will prevent time-consuming litigation.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 305 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 509 Labor and Public Employment on H.B. No. 444

The purpose of this bill is to amend Section 383-30 by establishing a seven week disqualification period for claimants who voluntarily separate from employment without good cause and those who are discharged for gross misconduct. Claimants who are discharged for theft or embezzlement on the job are disqualified until they are re-employed for at least five consecutive weeks following their discharge.

Your Committee has reviewed and carefully considered the testimony and administrative handling of claims over the last ten years and finds that restoring the pre-1976 provisions to Section 383-30 would not be appropriate at this time as the original bill contemplates. Thus, H.B. No. 444 has been amended as follows:

(1) To insure prompt and uniform administration of Section 383-30 the two (2) to seven (7) week range for disqualification has been eliminated and instead a fixed period of disqualification has been established.

(2) At the Department of Labor and Industrial Relations' urging a seven week disqualification period has been set to maintain a stringent penalty on those who without cause quit their jobs or who are terminated for gross misconduct. More than a seven week period of disqualification is found too harsh and not appropriate from an economic and policy standpoint.

(3) Your Committee finds no need to change the existing disqualification provision for those employees who are terminated for job related theft or embezzlement. Therefore, the present five week re-employment requirement remains.

Your Committee on Labor and Public Employment is in accord with the intent of H.B. No. 444, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 444, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 510 Labor and Public Employment and Human Services on H.B. No. 251

The purpose of this bill is to require that contracts entered for the procurement of instructional materials would allow the State to transcribe such materials for use by visually handicapped students. The bill would also provide the right to make corrections, revisions, and amendments to the materials.

Under current copyright law, printed material may be transcribed for use by one person. In order to allow others to use prepared materials, agencies must request permission from the publisher. According to testifiers this process is difficult, time consuming, and results in the destruction of materials if permission is not secured.

Your Committees received testimony from several agencies and organizations in favor of this bill. Several jurisdictions have similar statutes providing the right of the State to transcribe materials for students unable to use conventional materials.

After further consideration, your Committees found this measure is important not only to visually handicapped students, but all handicapped students who are unable to use materials in conventional formats. Your Committees agreed to amend the bill to include all handicapped students, including the visually handicapped. Your Committees also amended the section title to conform with the proposed amendment.

Your Committees on Labor and Public Employment and Human Services are in accord with the intent and purpose of H.B. No. 251, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. 251, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 511 Higher Education and the Arts on H.B. No. 230

The purpose of this bill is to amend Section 103-8, Hawaii Revised Statutes, to require all State departments and agencies who expend monies on Capitol Improvement Projects for the acquisition of art to report to the Comptroller.

Testimonies in favor of the intent of this bill were received from the Department of Accounting and General Services and the State Foundation on Culture and the Arts. It is felt by these agencies that amending the statute would formalize the administrative process that now exists and would strengthen the State's ability to insure that the appropriate monies are reported and set aside to comply with statutory requirements.

The Department of Accounting and General Services recommended that the government bodies should report to the State Foundation on Culture and the Arts, which had no objections, instead of the Comptroller.

Your Committee has adopted the above recommendation, and has changed the proposed language in Section 1 to reflect this recommendation. The bill has been further amended to make a technical, nonsubstantive change for the purpose of style and clarity.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of H.B. No. 230, as amended herein, and recommends that it pass Second Reading in the form attached thereto as H.B. No. 230, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Levin.

SCRep. 512 Judiciary on H.B. No. 768

The purpose of this bill is to amend Article XV, Section 1 of the Hawaii Constitution to permit the inclusion of Palmyra Island in the boundaries of the State of Hawaii subject to its acquisition by the State and the approval of Congress

Under the present law, the State of Hawaii consists of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, except the atoll known as Palmyra Island. Also excluded from the boundaries of the State of Hawaii are the Midway Islands, Johnston Island, Sand Island and Kingman Reef, together with their appurtenant reefs and territorial waters.

Your Committee received testimony in support of the measure from the Department of Planning and Economic Development, Professor Alexander Malahoff and the Citizens Action Group of Kau. Testimony indicated that Palmyra Island has economic potential in cobalt-rich manganese crust ocean mining in the waters surrounding and adjacent to the island. There may also be a possibility of stationing a rocket launching facility on Palmyra Island.

Your Committee believes that the inclusion of Palmyra Island within the boundaries of the State of Hawaii will contribute significantly to marine resource development and other research and economic opportunities.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 768, 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 Peters.

SCRep. 513 Judiciary on H.B. No. 208

The purpose of this bill is to make it clear that where a minor commits murder or attempted murder in the first or second degree, the minor would be subject to a mandatory waiver proceeding, just as the minor would have been under prior law.

Your Committee notes that under the old penal code, murder was classified as a class A felony and, therefore, constituted a waivable offense under Section 571-22(c), HRS.

Under the new penal code, murder is divided into two degrees (murder, first and murder, second degree) and is no longer classified as a class A felony. This change unintentionally resulted in murder being removed from Section 571-22(c) as a waivable offense.

Your Committee finds that this is a housekeeping measure to bring the law into conformity with legislative intent and prior law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 208, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 514 Consumer Protection and Commerce and Judiciary on H.B. No. 312

The purpose of the bill is to repeal the provision allowing the Bank Commissioner to grant a conditional approval to an application which requires the applicant to make additional showing or changes in the proposed bank. The bill also provides that a decision of the Bank Commissioner adverse to an applicant shall be reviewable upon appeal to the Circuit Court of the First Judicial Circuit as provided in Chapter 91.

Your Committees have received testimonies from the Department of Commerce and Consumer Affairs and from the Hawaii League of Savings Institutions in support of the bill. The Bank Commissioner has testified that a conditional approval of a bank application is inappropriate. Current law provides appeals of a Bank Commissioner's decisions be made to designated boards such as the Director of Taxation, the Comptroller, the Director of Commerce and Consumer Affairs,

and the Attorney General. This bill will provide a direct appeal to the First Circuit Court and will ensure uniformity in the review of the administrative decisions of the Bank Commissioner.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 312, 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 Yoshimura.

SCRep. 515 Human Services on H.B. No. 1384

The purpose of this bill is to allow the Hawaii Paroling Authority to place parolees on home detention as an alternative to imprisonment and as a possible condition of parole for those eligible for parole but are "borderline." Home detention would be cost-effective, reduce the overcrowding problem in the State prisons and increase public safety.

In the past year, the Hawaii Paroling Authority utilized home detention as a condition of parole for certain types of offenders. These include those who are young and immature with good family support, and those who have been imprisoned for relatively long periods of time and have not had the opportunity for furlough or half-way house community programming. Under normal circumstances, the home detention condition extends from three to six months and permits parolees to be away from their homes only to work, to attend required programs, or to seek treatment for medical emergencies. Upon successful completion of the home detention period, this condition is generally released or removed.

Your Committee has amended this bill by eliminating Section 2 which added a new section to Chapter 346, which would have made parolees subject to home detention ineligible for public assistance. Federal Public Assistance regulations prohibit assistance to an inmate of a public institution. However, this prohibition is inapplicable to a person on home detention, and such person should be accorded the same opportunity as any other person who is eligible to apply for public assistance.

Your Committee has deleted the reference to home detention originally proposed as an amendment under §353-66 as a term and condition of parole. Instead, your Committee has amended §353-65, Hawaii Revised Statutes to include the reference to home detention. The rationale for this amendment is to allow the Hawaii Paroling Authority the ability to utilize home detention as a condition of parole, so that home detention shall be uniformly enforced.

Finally, your Committee has amended subsection (p) of Section 706-624, Hawaii Revised Statutes by excepting more places that a person on home detention may go. Initially, the amendment was limited to going to and from the person's place of employment. It has been amended to also include the office of the person's physician or dentist, the probation office, or as may be granted by the person's probation officer pursuant to court order.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1384, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1384, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 516 Health on H.B. No. 681 (Majority)

The purpose of this bill is to exempt licensed community health facilities from county zoning provisions prohibiting group living facilities.

Your Committee received testimony from a number of public and private groups in vigorous support of this bill, as it will allow disabled persons capable of living in a community setting to move out of institutions into home-like community health care facilities. The low ratio of staff to clients in these facilities facilitates intensive training, resulting in improvements in clients' behavior and functional

skills, in contrast to institutions where the high staff-client ratio results in little training and lots of idle time.

This bill is in line with the State's goals of removing disabled individuals from institutions and integrating them into the community, and will foster a broader range of licensed community health residential alternatives for persons needing such care.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 681 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.
(Representatives Shito and Ribellia did not concur.)

SCRep. 517 Planning, Energy and Environmental Protection on H.B. No. 377

The purpose of this bill is clarify the membership criteria and composition of the State Environmental Council.

Your Committee finds that in its capacity as the a major liaison between the State and the general public in matters concerning ecology and environmental quality, the membership of the Environmental Council should be broad based and wisely formulated to insure the necessary expertise to carry out its functions. Persons who are actively involved in the preparation of environmental assessments and impact statements, such as environmental consultants, collectively represent a group with great expertise in analyzing potential environmental effects of proposed actions. Having such people serve as members clearly benefits the public as well as the Council. This bill will insure that this group of knowledgeable people will be represented on the Council.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 377 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 518 Planning, Energy and Environmental Protection on H.B. No. 374

The purpose of this bill is to provide the Office of Environmental Quality Control (OEQC) with the authority to adopt rules in accordance with Chapter 91, HRS for the purpose of implementing its mandated functions and duties.

Your Committee finds that Section 341-4, HRS, outlines the powers and duties of the OEQC. However, the section fails to address the issue of the rule-making authority of the Office. Inasmuch as the OEQC serves as an advisory office to the governor and is placed within the Department of Health for administrative purposes, your Committee finds that the Office should be delegated full rule-making authority.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 374 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 519 Housing and Community Development on H.B. No. 1158

The purpose of this bill is to (1) clarify the definition of displaced person and the circumstances under which government assistance is required and (2) require payment of relocation costs by owners who willfully neglect or violate building and housing codes.

Your Committee finds that Chapter 111, Hawaii Revised Statutes, requires relocation payments and services for persons displaced by certain governmental actions. Chapter 111 also requires reimbursement of moneys paid out under its provisions by persons responsible for zoning code violations.

The City and County testified that this bill would remove provisions in the existing law which make the chapter's application overly broad and subject to misinterpretation. This bill would also clarify that in order to be considered a displacee, a tenant affected by a code enforcement program must be required to move by a government agency.

Finally, this bill would amend Chapter 111 to require property owners to be responsible for displacement caused not only by zoning code violations but housing and building code violations as well. Your Committee agrees that property owners are responsible for compliance with all codes which protect health and safety, and not only the zoning code.

Your Committee has made minor drafting corrections to this bill.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 1158, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1158, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 520 Housing and Community Development on H.B. No. 1796

The purpose of this bill is to make several technical amendments, most of which are for "housekeeping" purposes, to Chapter 359G, Hawaii Revised Statutes.

The bill proposes the following amendments:

1. Section 359G-1 has been updated and amended for purposes of clarity.
2. Definitions for certain terms used in the chapter have been added. For the most part, the definitions for these terms are identical to those used in Chapters 356 and 359, Hawaii Revised Statutes, which are also chapters administered by the Hawaii Housing Authority (HHA).
3. The bill deletes references to "qualified partner" and substitutes it with "eligible developer", a term which is defined in the chapter. Your Committee believes that the present language inappropriately implies a particular type of relationship between the Authority and the development entity.
4. The bill also replaces the term "low income" with "lower income". Although neither term is defined in the chapter, we believe that low income connotes an income which is substantially below the State median income. Although the HHA has developed and will continue to develop homes for this target group, your Committee believes that efforts should also be targeted toward those with incomes sufficient to qualify for the purchase of HHA-developed homes. "Lower" income, we believe, is a more appropriate term to use.
5. The contractual staff reserve fund created under Section 359G-3.3 is being repealed. This fund, which has never been funded, was established for use "in accordance with the purposes set forth in Section 359G-3". However, Section 359G-3 was repealed in 1978.
6. Other non-substantive, housekeeping amendments are also proposed.

Upon further consideration of this measure, your Committee has amended this bill as follows:

1. SECTION 2 of this bill amends Section 359G-1.1 to include a definition of the terms "housing" and "housing project". The definition for these terms has been amended by deleting the words "stores" and "offices" in favor of the more generic term "commercial space". Further, this paragraph defining "housing" and "housing project" has been underscored because it is a new definition.
2. Section 359G-4.1 was amended during the last legislative session, therefore SECTION 6 of this bill has been amended to reflect the statutory changes made to this section.
3. Section 359G-10.5 in SECTION 8 of this bill has been amended by replacing

the term "private developer" with "eligible developer" for the sake of consistency.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 1796, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1796, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives M. Ige, Kihano and Leong.

SCRep. 521 Housing and Community Development on H.B. No. 311

The purpose of this bill is to authorize the Hawaii Community Development Authority to adopt administrative rules to establish the allocation of costs for the removal, relocation, replacement or reconstruction of existing utility lines within the Kakaako improvement districts. The bill further provides that the cost be allocated between the Authority, the affected public utility companies, and the properties specially benefiting from the utility improvements.

In accordance with Section 206E-6, Hawaii Revised Statutes, the Authority has developed a district-wide improvement program for Kakaako and implemented its first Improvement District Project. Public utility improvement costs have been allocated to government, affected utility companies, and benefiting properties in accordance with rules adopted by the Authority.

The Authority testified that the rules required the utility companies to pay for the total cost of relocating existing underground lines to another underground location. This requirement is consistent with the policy and past practices of the City and County in the implementation of its improvement district projects. During the process of finalizing the details of the Improvement District I Project, the utility companies questioned whether the Authority had the proper statutory authority to impose the cost allocation requirements. The Authority testified that it did have the proper authority, however, it was in favor of removing any doubt regarding its authority to adopt such rules.

The Hawaiian Electric Company, Hawaiian Telephone Company, and GASCO Inc. testified in favor of establishing a specific cost allocation formula in the statutes. The proposed formula, which would involve cost-sharing, is not consistent with the current practices of the City and County of Honolulu regarding costs for relocating utility lines from underground to underground and from overhead to overhead locations. The Authority testified against the proposed amendment because it would increase the cost of utility improvement to the Authority and Kakaako property owners. Also, it was felt that a specific formula in statutes may not be appropriate as it would be applicable to all counties.

In response to questions from your Committee, the Authority and the utility companies indicated that they had no objections to the existing cost allocation methods used by the City and County. As a result, your Committee believes it is not necessary to amend the bill to set forth a specific formula. It is the intent of this bill to provide the Authority with the authorization and flexibility to adopt, through administrative rules, any cost allocation method it deems necessary and appropriate to carry out the purpose of the Kakaako District-Wide Improvement Program. It is noted that the administrative rules of the Authority and its assessment methods for any improvement district project are required to be approved by the Authority and the Governor after public hearings are held in accordance with Chapter 91, Hawaii Revised Statutes. Your Committee is aware that the methods adopted by the Authority may differ from those used by the City, however, in formulating the improvement district projects the Authority shall fully consider the use of the City and County's existing cost allocation methods.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 311 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 Leong and Peters.

SCRep. 522 Consumer Protection and Commerce on H.B. No. 489

The purpose of this bill is as follows:

- (1) To ensure the continuation of the Board of Examiners in Optometry (Board) and its power and authority as provided for in Chapter 459, Hawaii Revised Statutes, by repealing the chapter "sunset date" of December 31, 1993;
- (2) To establish reciprocity for licensure in optometry for any optometrist who is registered or licensed in any state under certain circumstances;
- (3) To provide definitions of "board" and "director";
- (4) To require that one of the three licensed optometrist members of the Board shall be from a county other than Honolulu;
- (5) To delete the application photograph requirement for examination;
- (6) To delete the provision requiring proof of satisfaction of the continuing education program requirements;
- (7) To delete the provision which prohibits the Board from accepting the scores of an examination, if the examination was taken more than five years before the application date;
- (8) To authorize the Board to refuse, revoke or suspend a license for advertising under certain circumstances; and
- (9) To delete the provision which describes standards to which advertising information for specified ophthalmic goods or services must conform.

Your Committee has received testimonies from the Board of Examiners in Optometry and the Hawaii Optometric Association raising a number of issues to be resolved.

Your Committee has considered their concerns and has amended the bill as follows:

- (1) Deleted the provision which authorized reciprocity, as your Committee has been informed that reciprocity is premature at this time.
- (2) Increased the number of members of the Board from five to seven members, five of whom are required to practice optometry, and two are public members.

Your Committee hopes that this will facilitate the inclusion of Neighbor Island members and minimize quorum problems.

- (3) Restored the application photograph requirement to facilitate administrative identification of the applicant.
- (4) Restored the requirement for continuing education for licensed optometrists to encourage these professionals to keep abreast of recent development in the practice.
- (5) Restored the provision prohibiting the Board from accepting scores of the National Board of Examination, if the examination was taken by the applicant more than five years prior to the date of application.

Your Committee has been informed that this requirement will not impose any hardship on an applicant because the time does not toll until a candidate has passed all twelve parts of the examination.

- (6) Restored the provision allowing the Board to refuse, revoke or suspend a license for directly, or indirectly, accepting or offering employment to a person who does not have a valid license.

Your Committee is not convinced that eliminating this commercial practice restriction will protect the public.

- (7) Restored the provision to allow advertising if the content of the ads are

in accordance with minimal information.

Your Committee is informed that the language of the provision is pursuant to the Federal Trade Commission's restrictions promulgated to safeguard the public against false, unfair, and deceptive advertising and trade practices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 489, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 489, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 523 Consumer Protection and Commerce on H.B. No. 498

The purpose of this bill is to ensure the continuation of the Board of Dispensing Opticians (Board) and its power and authority as provided in Chapter 458, Hawaii Revised Statutes, by providing a new chapter "sunset date" of December 31, 1993.

The bill also provides the following:

- (1) Requires an applicant for a certificate of dispensing optician to take the National Opticianry Competency Examination and National Contact Lens Registry Examination, and deletes the requirement for a practical examination administered by the Board;
- (2) Deletes the requirement that separate applications be made for each place of business and that each application be accompanied by a registration fee;
- (3) Authorizes the Board to establish the procedures for issuing certificates for dispensing opticians, and the dispensing qualifications of firms, including sole proprietorships;
- (4) Deletes the supervision requirement of an ophthalmologist or optometrist for the fitting of hard and soft contact lenses or artificial eyes;
- (5) Provides, technical, nonsubstantive corrections to the chapter for purposes of style and consistency.

Your Committee received testimonies from the Board of Dispensing Opticians, the Board of Examiners in Optometry, the Hawaii Ophthalmological Society, and other interested individuals concerning the contents of this bill.

After careful deliberation, your Committee has amended the bill to reflect the concerns raised as follows:

- (1) Restored the examination requirement, and deleted the specific reference to the National Opticianry Competency Examinations and National Contact Lens Registry Examination.

It is the intent of your Committee to provide the Board with the flexibility to determine, through the rule-making process, the examinations it will administer to applicants.

- (2) Restored the requirement for a separate application for each place of business inasmuch as your Committee believes that this requirement will assist the Board and the Department of Commerce and Consumer Affairs in the enforcement of the provisions contained in Chapter 458.
- (3) Deleted the subsection (a) to Section 458-6 on page 6, lines 3 to 11, of the bill referring to the national examination. Your Committee has left the original paragraph in the bill intact.
- (4) Restored the requirement that no one fit a hard or soft contract lenses or artificial eyes except under the orders and personal supervision of an ophthalmologist or optometrist.

- (5) Provided technical, nonsubstantive corrections to the bill.

Your Committee on Consumer Protection and Commerce Committee is in accord with the intent and purpose of H.B. No. 498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 498, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 524 Consumer Protection and Commerce on H.B. No. 1521

The purpose of this bill is to provide the Real Estate Commission (Commission) with subrogation rights in cases where it has settled a claim with proceeds from the Real Estate Recovery Fund (Fund).

Currently, the Commission is empowered with subrogation rights in cases where it satisfies judgments from the Fund upon an order of the court. However, it is unclear whether the Commission has the same subrogation rights in cases where the Commission has settled a claim.

Your Committee finds that the differentiation between cases settled and cases adjudicated to judgment should be eliminated to meet the administrative concerns of the Commission, and to simplify the relief process aggrieved individuals must adhere to.

Favorable testimony was submitted by the Real Estate Commission.

The bill was amended to correct certain typographic, technical, and stylistic errors. Your committee has amended section 467-16 to include the reference to settlements by the Commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1521, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1521, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 525 Consumer Protection and Commerce on H.B. No. 1864

The purpose of this bill is to specify: (1) that inspection reports shall refer to wood-destroying insects; (2) that a written estimate or opinion statement may be issued prior to a written inspection report; and (3) that the report shall also contain the identification of visible evidence of wood-destroying live infestation as determined by the licensee.

Presently the Pest Control Board has prescribed a form called "PC-9" for the termite inspection report. The purpose of any termite inspection is to assure that no infestation of wood destroying insects exists at the time the property is approved for mortgage insurance. The inspection report is not intended to be an assurance of compliance with repair conditions, unless contracted to do so by the seller or buyer of the property, nor is it a warranty against future infestation.

Your Committee has received testimony from the Pest Control Board and the Hawaii Pest Control Association in support of this bill.

Your Committee has amended the bill by restructuring and rewording the bill to clarify the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1864, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1864, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 526 Consumer Protection and Commerce on H.B. No. 285

The purpose of this bill is to delete the July 1, 1987 termination date of Act 107, Session Laws of Hawaii 1984, relating to the arbitration of disputes involving

horizontal property regimes.

Your Committee has received testimonies from the Real Estate Commission, the Hawaii Independent Condominium and Cooperative Owners Association, the Hawaii Association of Realtors, and concerned individuals and attorneys in support of this bill.

Your Committee finds that the use of arbitration to settle disputes involving owners of condominiums, the association of condominium owners, the boards of directors, and managing agents is a cost-effective, accessible, and efficient forum for conflict resolution that should be continued.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 285 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 527 Consumer Protection and Commerce on H.B. No. 583

The purpose of this bill as received by your Committee in its short form is to provide the consumer with alternative means of obtaining insurance. The Legislature finds that the consumer is burdened with the high cost of obtaining insurance.

The original purpose in its amended form addresses the issue of increasing number of legislative proposals to mandate health insurance coverage for certain providers of health care or a variety of health care services as part of individual or group policies, and the cost ramifications is becoming a public concern. The amended purpose of this bill is to provide as follows:

1. The merits of any proposal to mandate coverage for a particular health service or health care provider shall be balanced against a variety of consequences to include the immediate effect upon the cost of insurance coverage and the ability of the general public to afford such coverage; and

2. A systematic review of all legislation proposing mandated or mandatorily offered health coverage shall be required to explore all ramifications of the proposed legislation to assist the Legislature in determining whether mandating a particular coverage is in the public interest.

Your Committee has received favorable testimonies from the Hawaii Medical Services Association and the Kaiser Foundation Health Plan.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 583, H.D. 1, and recommends that it pass second reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 528 Consumer Protection and Commerce on H.B. No. 896

The purpose of this bill is to require a licensed real estate broker or salesman to attend ten hours of continuing education, or its equivalent, as determined by the Real Estate Commission (Commission) during the two years prior to the license renewal. Failure to meet this requirement would result in a license becoming inactive. Reactivation would occur by providing proof of having satisfied the continuing education requirement.

Your Committee received testimony from the Real Estate Commission and the Hawaii Association of Realtors in support of this bill.

Your Committee notes that the real estate industry has become so complex that mandatory continuing education is needed to ensure the public of the competency of licensees. Every year new laws, rules and regulations, court decisions, and other significant changes are made affecting the way real property is held, transferred, and financed. And in this regard your Committee finds that enactment of this bill would be in the best interest of the public.

Your Committee has amended the bill by deleting the phrase "or its equivalent" on page 1, line 7 of the bill so that the Commission will have the discretion to determine the programs for the continuing education requirement.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 896, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 896, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 529 Consumer Protection and Commerce on H.B. No. 1244

The purpose of this bill is to establish a definition for "crash parts", which are the replacement parts of a motor vehicle and are repaired or replaced after a collision. The bill also requires that an invoice be provided to a customer by a motor vehicle repair dealer and an estimate providing certain disclosure statements if inferior or non-tested crash parts are used in the repair of a motor vehicle.

Your Committee has received testimonies from the Society of Collision Repair Specialists and from the Hawaii Insurers Council.

Your Committee believes that this bill is in the public interest and will benefit consumers. Modern motor vehicles are engineered to provide protection and safety, and federal safety standards require vehicle manufacturers to crash test their cars to insure a minimum safety standard. Crash parts that were not manufactured as original equipment have not been crash tested, and there is no way of knowing if they would be safe in a collision. However, your Committee clearly intends that the requirements of this bill do not apply to used crash parts.

Your Committee has amended the bill as follows:

1. By adding "other than used parts or parts manufactured by anyone other than the original vehicle equipment manufacturer" in page 1, line 5, of the bill to ensure that the definition of "crash parts" shall not include those parts;
2. By adding "vehicle equipment" in page 3, line 13 of the bill for clarity;
3. By adding "not manufactured or supplied by the original vehicle equipment manufacturer" in page 3, line 19, of the bill for clarity;
4. By deleting lines 3 to 5 in page 4 of the bill and inserting the provision as a new paragraph (3) and further adding "nor manufactured or supplied by the original equipment manufacturer" for clarity;
5. By deleting "or not less than \$10,000 for all violations of subsections (b) and (c) in any three-month period" because your Committee feels that this will be an unnecessary imposition to motor vehicle repair dealers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1244, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1244, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 530 Consumer Protection and Commerce on H.B. No. 486

The purpose of this bill is to prohibit discrimination in real estate transactions against a physically handicapped person because the person uses the services of a guide dog, a signal dog, or a service dog, while allowing reasonable restrictions to be imposed for problems which may be caused by those animals. The bill also defines guide, signal, and service dog.

Your Committee has received testimonies from the Department of Commerce and Consumer Affairs, the Department of Social Services and Housing, the Commission on the Handicapped, Hawaii Centers for Independent Living, the Hawaii Association of the Blind, and several real estate associations and concerned individuals

in support of the bill.

Your Committee is convinced that guide, signal and service dogs are an essential aid to independent living and mobility for the physically handicapped. These dogs are not to be construed as pets and must meet established standards of competence. These dogs are recognized everywhere as serious work animals.

Your Committee has amended the bill by requiring that only qualified or certified guide, signal and service dogs be allowed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 486, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 486, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 531 Consumer Protection and Commerce on H.B. No. 521

The purpose of this bill is to authorize the Boxing Commission to adopt rules which provide as follows:

1. A mandatory neurological examination for a boxer who is knocked out and an eye examination as part of a boxer's annual medical examination, unless the Commission's physician determines that the examinations will not have a valid purpose;
2. An automatic medical suspension of any boxer who is knocked out or received severe head blows;
3. Deletion of the requirement for an annual review to ensure that the Commission's rules and powers are within the authority of the Commission and pursuant to Chapter 91, Hawaii Revised Statutes.

Your Committee has received testimony from the Boxing Commission and the Hawaii Medical Association. Providing the Commission's physician the authority to determine whether a neurological examination for a boxer who is knocked out or to determine whether an eye examination by an ophthalmologist should be part of a boxer's annual medical examination will save the boxer unnecessary expenses. Your Committee agrees that these examinations should not be mandated automatically but should be left to the discretion of the Commission's physician.

Your Committee also notes that the annual review of the Commission's rules is unnecessary because all agencies are required to adopt rules pursuant to Chapter 91, Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 521 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 Peters.

SCRep. 532 Consumer Protection and Commerce on H.B. No. 497

The purpose of this bill is to ensure the continuation of the Board of Cemeteries and Mortuaries and its power and authority as provided in Chapter 441, Hawaii Revised Statutes, by providing that the chapter shall be repealed effective December 31, 1993, and to amend its title to "Cemetery and Funeral Trusts".

The bill also shortens the period for the payments to the perpetual care fund and the pre-need trust from thirty to fifteen days.

Your Committee has received testimonies from the Department of Commerce and Consumer Affairs and the Hawaii Allied Memorial Council in support of the bill.

However, your Committee has been informed that the fifteen days period will cause hardship to the cemetery and mortuary industry because their accounting programs utilize a thirty-day system. Accordingly, your Committee has amended the bill by deleting Section 3 of the bill and renumbering the remaining sections.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H. B. No. 497, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 497, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 533 Consumer Protection and Commerce on H.B. No. 1532

The purpose of this bill is to allow an employer to use the insurance proceeds on a group policy on the lives of employees to repurchase employer securities distributed to employees from a qualified pension, profit sharing, stock bonus, or employee stock ownership plan (ESOP).

Current law prohibits naming an employer as the beneficiary of a group insurance policy and restricts the ability of an employer to indemnify itself against the risk of the pre-retirement death or permanent disability of a plan participant.

Your Committee has received testimony from the Department of Commerce and Consumer Affairs, the Hawaii State Association of Life Underwriters and interested parties.

Your Committee has heard testimony that companies throughout the United States are adopting employee stock ownership plans and profit sharing plans. One of the ways many companies use to build up a fund to buy back stock from an employee at death, retirement, or termination of employment is through a relatively inexpensive group insurance program. This program is possible only by using a trust established in Rhode Island. Your Committee feels that Hawaii can provide an alternate market to these companies.

Your Committee has amended the bill by rewording the language of the provision to require that the entire cost of the insurance must be borne by the employee and the employer must use the benefits solely for the purpose of purchasing employer securities distributed to employees from plans qualified under §401 of the Internal Revenue Code.

Your Committee also has made technical, nonsubstantive corrections to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1532, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1532, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Takamine.

SCRep. 534 Consumer Protection and Commerce on H.B. No. 528

The purpose of this bill is to repeal Section 8 of Act 167, Session Laws of Hawaii 1983, which deleted certain specific powers granted to industrial loan companies. The effect of the bill will be to preserve the current powers of industrial loan companies that will be affected by the Hawaii Business Corporation Act which becomes effective on July 1, 1987.

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

Your Committee has amended the bill with technical, nonsubstantive corrections.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 528, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 528, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 535 Consumer Protection and Commerce on H.B. No. 1530

The purpose of this bill is to provide that mortgages which secure future

advances shall be superior to any subsequently recorded mortgages, lien or other encumbrances or conveyance, other than liens for real property taxes and assessments for public improvements.

The bill does not make any substantive changes to current law. The intent of the bill is to treat future advances under open-end loans the same as closed-end mortgages, which means that only real property taxes and public assessments will be able to assert priority over advances under open-end loans.

Your Committee has received testimony from the Hawaii League of Savings Institutions and the Hawaii Financial Services Association in support of the bill.

Your Committee has made one grammatical correction to the bill by deleting "shall" on page 2, line 4 of the bill and by inserting "shall" on page 2, line 6 of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1530, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1530, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 536 Consumer Protection and Commerce on H.B. No. 492

The purpose of this bill is as follows:

(1) To ensure the continuation of the Board of Massage by requiring that Chapter 452, Hawaii Revised Statutes, which pertains to the Board of Massage, be repealed effective December 31, 1993;

(2) To exempt a licensed massage therapist who does not operate a business employing other persons from the requirement for an out-call service license;

(3) To specify that members of the Board of Massage cannot be affiliated with any school teaching massage, or sponsor an apprentice for licensure;

(4) To require that an applicant for examination complete academic training in anatomy, physiology, and the theory and demonstration of massage which is not confined to any specific system or method of massage; and

(5) To establish the examination for a license which shall consist of one-part written examination which is not confined to any one specific system or method.

The bill was introduced pursuant to recommendations in the Legislative Auditor's Sunset Report on the Board of Massage.

Testimony from the Board of Massage and other concerned therapists was received by your Committee

Your Committee has amended the bill by requiring that a licensed massage therapist be exempt from the requirement of an out-call license unless that therapist is affiliated with a business providing massage as an adjunct service. Your Committee is concerned that activities under the guise of massage therapy be prevented.

Your Committee has further amended the bill by requiring that Board members shall be licensed massage therapists who are actively employed as massage therapists. It is our intent that members of the Board of Massage shall have the knowledge and expertise necessary to carry out its functions.

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

Signed by all members of the Committee.

SCRep. 537 Consumer Protection and Commerce and Judiciary on H.B. No. 413

The purpose of this bill is to provide a definition for the practice of pharmacy. This definition includes:

1. The interpretation and evaluation of prescription orders;
2. The compounding, dispensing, and labeling of drugs and devices (except labeling by a manufacturer, packer, or distributor of non-prescription drugs and commercially legend drugs and devices);
3. The participation in drug selection and drug utilization reviews;
4. The proper and safe storage of drugs and devices and the maintenance of proper records therefor;
5. The responsibility for advising when necessary or where regulated, of therapeutic value, content, hazards, and use of drugs and devices; and
6. The offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

Your Committees have received testimony from the Board of Pharmacy, the Board of Examiners in Naturopathy, the Hawaii Society of Hospital Pharmacists, and the Hawaii Society of Naturopathic Physicians in support of the bill.

Under present law, there is no provision in Chapter 461, Hawaii Revised Statutes, which defines the practice of pharmacy. The Board of Pharmacy has testified that the definition is essential to determine which persons are to be licensed as pharmacists, to distinguish the various activities that constitute the practice of pharmacy, and to have periodic adoption of rules and regulations to meet the changing practices in the profession.

However, your Committees have considered the concern presented by the Hawaii Society of Hospital Pharmacists regarding the practice of institutional pharmacy by a hospital pharmacist who assist physician by managing a patient's drug therapy or who are official members of hospital emergency teams responsible for charting and administering parenteral drugs on the order of a physician or who perform other duties pursuant to a doctor's order.

To assure that these professional services are not omitted from the definition of the practice of pharmacy, your Committees have amended the bill by delineating the duties, procedures and functions institutional pharmacists perform. Your Committees have amended the bill by also including the definition of a licensed acute care hospital and the definition of a licensed medical doctor.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H. B. No. 413, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H. B. No. 413, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 538 Consumer Protection and Commerce on H.B. No. 477

The purpose of this bill is to prohibit a landlord from recovering or taking possession of a dwelling unit by turning off running water, hot water, electricity, gas, or other essential services, except where there is abandonment or surrender of the premises.

Your Committee has received testimony from the Office of Consumer Protection, the Legal Aid Society of Hawaii, and the Hawaii Association of Realtors in support of the bill.

Your Committee has amended the bill pursuant to the recommendation of the Office of Consumer Protection to include a provision that will make a violation of the section a per se violation of Section 480-2, Hawaii Revised Statutes, and to provide an additional remedy of minimum damages of three times the monthly rent

or \$1,000, whichever is greater.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 477, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 447, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 539 Consumer Protection and Commerce on H.B. No. 1861

The purpose of this bill is to require a condominium operator who engages in the practice of real estate and who is not a custodian or caretaker to obtain a license as a real estate broker or contract with a real estate broker to supervise and control the activity of condominium hotel operation.

Your Committee has received testimony from the Real Estate Commission and an interested party.

Act 141 of the 1985 Legislature set the regulation and licensing requirement of a condominium operator. Since the passage of the Act, however, new concerns have been raised about the condominium hotel operators and whether there are alternative means of regulation. Accordingly, your Committee has amended the bill to meet these concerns as follows:

- (1) Suspended the requirement for a license as a real estate broker for a period of one year by adding a new Section 2 to the bill;
- (2) Deleted the provision allowing a condominium operator to contract with a real estate broker to supervise and control the activity of the condominium hotel operation;
- (3) Provided that condominium operators shall register with the Department of Commerce and Consumer Affairs and provide evidence of bonding.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1861, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1861, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 540 Consumer Protection and Commerce and Judiciary on H.B. No. 62

The purpose of this bill is to amend Chapter 708, Hawaii Revised Statutes, by including as a misdemeanor the offense of the use, sale, or manufacturing of devices or equipment to fraudulently obtain telecommunications or cable television services. The bill also repeals Section 279-9, Hawaii Revised Statutes, which established a telecommunication or cable television service violation as a felony.

The bill transfers the theft of telecommunication or cable television services to the Hawaii Penal Code consolidating this class of theft with other statutory offenses dealing with theft.

Your Committees received testimony from the Department of Commerce and Consumer Affairs, the Police Department of the City and County of Honolulu, and the Hawaii Cable Television Association.

A review of the laws of other jurisdictions relating to theft of telecommunication or cable television services by existing or potential subscribers indicates these crimes are generally treated as a misdemeanor rather than a felony offense. However, these jurisdictions, including that of the federal government, provide a different classification for those who unlawfully use or divert telecommunication or cable television service for personal gain or commercial advantage.

Accordingly, your Committees have amended the bill by establishing different classifications and penalties as follows:

- (1) Cable television service fraud in the first degree as a class C felony;
- (2) Cable television service fraud in the second degree as a misdemeanor;
- (3) Telecommunication service fraud in the first degree as a class C felony;
and
- (4) Telecommunication service fraud in the second degree as a misdemeanor.

Your Committees have amended the bill further by: (1) authorizing the forfeiture to the State of telecommunication and cable television service devices; and (2) providing definitions of "telecommunication service device", "cable television service device", "telecommunication service", "cable television service", "cable operator", and "distributes".

Your Committees have also made technical, non-substantive amendments to the bill for purposes of style and clarity.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 62, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 62, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Peters.

SCRep. 541 Consumer Protection and Commerce and Judiciary on H.B. No. 518

The purpose of this bill is to create two new statutory chapters relating to the regulation of collection agencies, and to prohibit certain practices in the collection of debts. The bill further establishes the chapter on collection agencies in Chapter 26H, Hawaii Revised Statutes, and establishes a new "sunset date" of December 31, 1993 for the chapter. The bill also repeals Chapter 443A, Hawaii Revised Statutes.

Your Committees received testimonies from the Department of Commerce and Consumer Affairs, the Hawaii Bankers Association, the Hawaii Financial Services Association, the Hawaii League of Savings Institutions, and the Hawaii Credit Union League in support of the bill.

The current law on collection practices contained in Chapter 443A, Hawaii Revised Statutes, has created confusion among debtors and creditors. This bill clarifies the confusion by repealing Chapter 443A and creating two new chapters: (1) a general regulation of collection practices; and (2) standards for professional collection agencies. The latter establishes registration and bonding requirements for collection agencies, and provides for automatic suspension and subsequent termination for failure to keep the bond requirement. It is the intent of your Committees to protect creditors from unscrupulous or dishonest collection agencies, and to protect debtors from abusive collection agencies.

To distinguish regulations for collection agencies from regulations for collection practices by other institutions, your Committees have created a new chapter to deal with collection practices in general. This chapter establishes standards of practices which would be prohibited in any commercial debt collection activity.

Your Committees have amended the bill by excluding industrial loan companies and credit unions from the definition and requirements of a collection agency. Their practices are regulated through other federal and State laws.

Your Committees have also provided a definition of "consumer debt", as any debt of a natural person incurred for personal, family, or household purposes, so that the chapter on collection practices clearly covers collection activities by debt collectors.

Your Committees have further amended the bill by providing that violations of the requirements for collection practices are unfair and deceptive acts within the meaning of Section 480-2, Hawaii Revised Statutes, except in a situation where the debt collector can prove that the violation resulted from a bona fide error. Your Committees have also made certain technical, nonsubstantive changes for purposes of clarity and style.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 518, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 515, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 542 Consumer Protection and Commerce and Judiciary on H.B. No.
1528

The purpose of this bill is to repeal the requirement that an industrial loan company have outstanding, at any time, its certificates or debentures in an aggregate, in excess of ten times the aggregate amount of its paid-up capital and surplus. A new requirement is substituted that would require every industrial loan company to maintain the minimum capital requirement established by the Federal Deposit Insurance Corporation (FDIC) for banks.

Also included in the bill is the procedure for providing notification to the institution in question when the Commissioner of Financial Institutions (Commissioner) has determined that an industrial loan company is operating with less than minimum requirement, specifying the actions the Commissioner may take.

Your Committees have received testimonies from the Commissioner of Financial Institutions and the Hawaii Financial Services Association in support of the bill.

Presently, all industrial loan companies in Hawaii that issue investment certificates and debentures are required to have these accounts insured up to \$100,000 by the FDIC. With the acquisition of federal deposit insurance by the industrial loan companies, it is no longer necessary to limit this amount. And as a result, this bill would establish minimum requirements to ensure that companies are operating in a prudent and sound manner.

However, the bill, as received, would only apply to sound and well-managed companies, and would not provide for companies that may have less than adequate capital reserves. Your Committees have therefore amended the bill by adding another provision that would allow the Commissioner to determine if the institution has an adequate amount of total capital or primary capital.

Your Committees have amended the bill further by inserting the phrase "that issues investment or thrift certificates or debentures to the public" to Section 1, line 3, of the bill for purposes of clarity. Other technical, nonsubstantive, revisions have been made to correct typographic, and stylistic errors.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 1528, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1528, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 543 Consumer Protection and Commerce and Judiciary on H.B. No.
524

The purpose of this bill is to delete the provision which allows an applicant, who fails to pass the optometry examination, to retake a second or third examination of those parts the applicant has failed to pass; thereafter, the applicant is required to file a new application with the required fees and to retake a complete examination.

The bill also establishes a right to a contested hearing for a person who has been denied or refused a license and a right to appeal the board's decision to the circuit court.

Your Committees have received testimony from the Board of Examiners in Optometry in support of the bill. Your Committees were informed that beginning on January 1, 1987, the Board has terminated its written examinations and now implements an examination provided by the National Board of Examiners which has its own procedures for retaking parts.

Your Committees also note that establishing a procedure for a contested hearing and an appeal will be in conformance with Chapter 91 requirements.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 524 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 Peters.

SCRep. 544 Consumer Protection and Commerce and Judiciary on H.B. No. 1222

The purpose of this bill is to repeal part VIII of Chapter 281, Hawaii Revised Statutes, which requires an "affirmation" from each liquor supplier doing business in Hawaii that the supplier will not sell or offer to sell liquor in any state or the District of Columbia at a price lower than in Hawaii.

Your Committees have received testimony from the Distilled Spirits Council of the United States in support of the bill.

Your Committees note that affirmation laws were enacted by many states to ensure that liquor suppliers do not discriminate in price between wholesalers in different states. However, these affirmation laws have proved to be difficult to enforce and may be unconstitutional as a violation of the commerce clause of the U. S. Constitution.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H. B. No. 1222 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 545 Consumer Protection and Commerce and Judiciary on H.B. No. 516

The purpose of this bill is as follows:

- (1) To provide new definitions and conform the terms and phrases according to federal regulatory provisions;
- (2) To establish an application requirement for a cable franchise and a fee of \$1,000, a public hearing and notice requirement, and the standards for the issuance of a cable franchise;
- (3) To require that a cable operator provide adequate and reliable services;
- (4) To provide guidelines for cable system installation, construction, operation, and removal, and to conform the State provisions with the federal law which authorizes the cable companies to use for cable services the easements dedicated for compatible purposes;
- (5) To establish the criteria and the authority for the Director of the Department of Commerce and Consumer Affairs (Director) to fine cable operators for violations rather than revoke, alter, or suspend their operating authority; and
- (6) To allow the Director to determine an annual fee to be paid by a cable operator for the purpose of administering and, to the extent permitted by federal law, for public, educational, or governmental purposes.

Your Committees have received testimonies from the Department of Commerce and Consumer Affairs, the Hawaii Cable Television Association, and concerned individuals.

Your Committees note that the bill is proposed in order to conform State law with federal requirements. The passage of the federal Cable Policy Act of 1984 has established a new framework for the State's regulation of cable communications services. Furthermore, the language of certain provisions need to be restated for purposes of clarity without making substantive changes.

Your Committees have amended the bill by adding a new Section 19 to require that the Department of Commerce and Consumer Affairs enact rules pursuant to Chapter 91. It is the intent of your Committees that annual fees shall be set pursuant to these rules. These rules shall also establish a public hearing requirement that the public may provide input to determine what portion of the annual fees is to be used for public access cable service, and what the needs and preferences are of the separate communities to be served by public access cable service.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 516, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 516, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Peters.

SCRep. 546 Judiciary on H.B. No. 1902

The purpose of this bill is to amend Section 134-6, HRS, to permit a person to carry unloaded firearms or ammunition, or both, in an enclosed container to a place of formal hunting or firearm use, training or instruction.

Testimony in support of the measure was received from the Schofield Rod and Gun Club, Security Equipment Corporation and the Koko Head Skeet Club.

The benefits of hunter safety education programs are enormous to hunters, would-be hunters and other recreational users of firearms. This bill will allow instructors and clubs to conduct training programs on firearm safety, use, and maintenance outside of established firing ranges.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1902 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 Peters, Shito, Jones and Medeiros.

SCRep. 547 Judiciary on H.B. No. 903

The purpose of this bill is to provide for the assignment of any type of income, including earnings, for child support.

Your Committee received testimony in support of this bill from the Judiciary, the Department of Social Services and Housing, and the Department of the Corporation Counsel for the City and County of Honolulu. Testimony indicated that the title of both HRS Sections 571-52 and 571-52.2 make reference to an assignment by court order of future wages for payments of support.

Your Committee adopted the recommendation of the Judiciary and amended Section 571-52, HRS, by deleting subsection (C) and inserting:

"(c) It shall be unlawful for any employer to refuse to hire a prospective employee, to discharge an employee, or to take any other disciplinary action against an employee, based in whole or in part upon an assignment authorized by this section. Any employer violating this section shall be guilty of a misdemeanor under Section 710-1077(1)(g)."

Your Committee further amended the bill on page 11, line 1, by including a definition of the term "employer" in Section 571-52.2(n), HRS:

"The term, 'employer,' as used in this section includes the United States government, the State, any political subdivision thereof and any person who is or shall become obligated to the obligor for payment of income."

Your Committee also make technical, nonsubstantive amendments to the bill.

Your Committee finds that H.B. No. 903, although of a housekeeping nature, is necessary and meritorious. This bill would eliminate confusion and doubt as well as assure that all sources of income are included.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 903, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 903, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Peters, Shito, Jones and Medeiros.

SCRep. 548 Judiciary on H.B. No. 1726

Your Committee notes that for several years this bill has come before the Legislature and that in the past the parties were asked to come together in agreement on a bill that would be mutually acceptable to all parties. After exhaustive study of the provisions of the bill, your Committee feels the clarifying language and provisions are fully in accord with the intent and purpose of Chapter 134, HRS.

Your Committee heard testimony in support of the bill from the Hawaii Rifle Association with a reservation that the provision requiring minors to obtain a permit pursuant to Section 134-5(b) be deleted. Currently that section is difficult to enforce and adequate protections are provided in Section 134-5(a) for supervision of a minor with a firearm and your Committee amended the bill accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1726, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1726, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Peters, Shito, Jones and Medeiros.

SCRep. 549 Judiciary on H.B. No. 920

The purpose of this bill is to improve both the efficiency and effectiveness of procedures under Chapter 586, HRS. More specifically, this bill:

- (1) permits a State agency to file a petition on behalf of a minor or incapacitated adult when there is no "family or household member" who can initiate the petition;
- (2) clarifies the separate identity, prerequisites for issuance, and terms of protective orders;
- (3) permits orders to be served by regular mail where the respondent attended the hearing;
- (4) creates a new section to clarify the effective dates of the temporary restraining order and of the protective order;
- (5) creates a new section to ensure the involvement and assistance of the Department of Social Services and Housing (DSSH) in domestic abuse matters involving alleged abuse to minors.

Your Committee received testimony in support of the bill from the Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Child and Family Service. Testimony indicated that many victims of domestic abuse depend on protective orders to rescue them from violent attacks and threats of abuse.

Your Committee amended the bill by inserting the word "or" between the word "minor" and the word "who," on line 7, page 1 of the bill, so that the language would reflect the Legislature's original intent to include coverage of both minors and incapacitated persons.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 920, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 920, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Peters, Shito, Jones and Medeiros.

SCRep. 550 Judiciary on H.B. No. 539

The purpose of this bill is to exempt from the State Tort Liability Act, all tort claims which arise from National Guard activities involving Federal technicians as defined in Section 709 of Title 32, United States Code (USC).

Your Committee received testimony in support of this bill from the State Department of Defense.

Present exceptions to the State Tort Liability Act ("State Act") include National Guard drills and field exercises, participation in field exercises, schools and small arms competitions, and Army and Air Force schools and field exercises. Members of the National Guard employed as federal technicians pursuant to Section 709 of Title 32, however, are not exempted. The Federal Tort Claims Act appropriately provides relief and the federal forum for claims arising from these technicians. By exempting these technicians from the State Act, this bill leaves the federal courts as the exclusive forum for such claims. This housekeeping measure provides for that exemption.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 539, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signēd by all members of the Committee except Representatives Peters, Shito, Jones and Medeiros.

SCRep. 551 Judiciary on H.B. No. 572

The purpose of this bill is to amend Article III, Section 4, and Article IV, Section 8, of the Constitution of the State of Hawaii to:

- (a) provide that a candidate for a seat in the Legislature who is unopposed after the primary election shall be considered duly elected to that seat at the primary election;
- (b) provide that the term of office of such member commence on the date of the general election; and
- (c) conform related provisions concerning the implementation of staggered terms.

The above-mentioned purposes are achieved by inserting or deleting appropriate language where necessary.

Your Committee received testimony from the Office of the Lieutenant Governor of the State of Hawaii indicating that this bill addresses a policy question properly answered by the Legislature. The office did, however, attest to the fact that H.B. No. 572 would possibly reduce the workload during the general election, thereby minimizing costs to the State.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 572 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 Peters and Jones.

SCRep. 552 Judiciary on H.B. No. 878

The purpose of this bill is to provide immunity to commanding officers who bring nonjudicial punishment actions against an accused.

Your Committee notes that the Hawaii Code of Military Justice currently immunizes convening authorities, military court members, and other persons involved with the proceedings and carrying out sentences imposed by the court,

against suits brought by an accused. The section is silent with regard to non-judicial punishment, thereby leaving commanding officers open to the threat of liability for nonjudicial punishment actions brought by them.

Your Committee believes that nonjudicial punishment is an effective tool in the Code of Military Justice for handling minor offenses, because of the ability to impose a relatively light sentence within a short period after the offense occurs. Limiting immunity to situations which only involve courts-martial could have the effect of discouraging nonjudicial resolutions which generally work to the benefit of the accused as well as the Military Justice system.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 878, 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 Shito and Yoshimura.

SCRep. 553 Judiciary on H.B. No. 331

The purpose of this bill is to amend Section 281-101.5, HRS, to add penalties for minors who violate the statute and to make such penalties appropriate for minors.

Testimony in support of the measure was received from the Honolulu Prosecuting Attorney's office, the Honolulu Police Department, the Retail Liquor Dealers Association and the Liquor Dispensers of Hawaii.

At the present time, the statute prohibits the sale of liquor to a minor and provides for penal sanctions and penalties, but there are no penal sanctions or penalties against the minor who purchases intoxicating liquor.

Your Committee is in agreement with the intent of the bill to hold minors accountable for their illegal activities, but at a level appropriate for their age and experience.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 331 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 Peters and Jones.

SCRep. 554 Judiciary on H.B. No. 1336

The purpose of this bill is to provide for the ready identification of will preparers by requiring that their names, attorney code numbers (where applicable), addresses, and telephone numbers be affixed to the will.

This bill seeks to encourage more careful preparation of wills.

Your Committee heard testimony in support of H.B. No. 1336 from a representative of the community.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1336 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 Shito and Yoshimura.

SCRep. 555 Judiciary on H.B. No. 1079

The purpose of this bill is to avoid possible conflicts of interest which may prevent the initiation of actions to determine the paternity of a child. Toward this end, H.B. No. 1079 allows for an action initiated by the Child Support Enforcement Agency on behalf of a child older than three years of age for the purpose of establishing paternity.

At present, conflicts between the interests of the child and those of the parent may preclude the filing of such action.

Your Committee heard testimony from the Department of Social Services and Housing, the Hawaii County Corporation Counsel, and a representative of the Corporation Counsel of the City and County of Honolulu in support of H.B. No. 1079.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1079 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 Peters and Jones.

SCRep. 556 Judiciary on H.B. No. 1256

The purpose of this bill is to amend Chapter 706, HRS, by adding a new section that would clarify the meaning of day, month and year by defining such terms. Also this bill would add a new section that would define "time of release."

Your Committee heard testimony from the Honolulu Prosecuting Attorney's office supporting this measure.

Law enforcement officials have at times been uncertain as to whether the meaning of day is a 24 hour day, Saturday, Sunday, or holiday or working day. This problem also carries over to week and year. This bill would eliminate the confusion of law enforcement personnel in establishing sentencing, release, and other terms of convicted defendants.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1256 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 Peters and Jones.

SCRep. 557 Judiciary on H.B. No. 904

The purpose of this bill is to amend Section 571-48(7), HRS, to provide for the authority of the court to issue certain orders regarding the parent(s) or guardian(s) of a minor child.

The present statute allows only for the authority of the court to require of such persons that they "...do or omit from doing any acts required or forbidden by law..." The language does not provide for the authority of the court to issue or enforce certain other orders pertaining to the welfare of the child, including orders to attend counseling sessions and orders to pay for the child's medical expenses.

Your Committee received testimony from the senior judge of the Family Court on behalf of the Judiciary in support of H.B. No. 904.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 904 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 Peters and Jones.

SCRep. 558 Judiciary on H.B. No. 983

The purpose of this bill is to stiffen the penalties for persons convicted of violations of Chapter 842, HRS, relating to organized crime.

Under present law, a violator of Chapter 842 faces the standard penalty for a class B felony, namely a possible maximum of ten (10) years incarceration, and/or \$10,000 in fines. This bill, however, requires imposition of both a fine and the

jail sentence without possibility of parole. Forfeiture provisions in the present law remain intact. The bill also provides for access to income tax records by the Attorney General and the county prosecutors.

The Attorney General's office testified in support of the bill but requested deferral of the access to tax records issue. The State Department of Taxation opposed increasing the access to tax records beyond the police to avoid duplication of effort.

Your Committee therefore amended the bill to delete the provision permitting the inspection of tax records by the Attorney General and the Prosecuting Attorney.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 983, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 983, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 559 Judiciary on H.B. No. 918

The purpose of this bill is to amend Section 584-14(c), HRS, to clarify the circumstances under which a man becomes a defendant in a paternity action. This bill requires the naming as an additional defendant another man ("third party") identified by the alleged father during the paternity proceedings.

As currently written, the statute does not provide authority for the court to compel a third party to submit to blood tests. Without the tests, no testimony as to his sexual access to the mother of the child may be allowed. By requiring the identification of a third party to the action, the court can compel blood tests to determine paternity. This bill facilitates the presentation of relevant testimony and prevents baseless attacks on the mother's reputation by the alleged father.

Your committee heard testimony from the senior judge of the Family Court on behalf of the Judiciary in support of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 918 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 Peters and Jones.

SCRep. 560 Judiciary on H.B. No. 919

The purpose of this bill is to amend Section 571-84(9), HRS, to provide for the selective disclosure of information relating to the disposition of cases involving juvenile defendants.

The present statute makes no provision for the disclosure of the court disposition in cases where the minor has not been adjudicated a law violator, and before the termination of proceedings. The inaccessibility of this information is not in keeping with the policy of recognizing the rights of victims. Moreover, the minor's right to privacy would not be violated, as disclosure would be made strictly on a selective basis to the victims involved.

Your Committee received testimony from representatives of the Judiciary and Victim/Witness Kokua Services in support of H.B. No. 919.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 919 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 Peters and Jones.

SCRep. 561 Judiciary on H.B. No. 921

The purpose of this bill is to amend Section 571-2(17), HRS, to conform the definition of "status offender" to the provisions in Section 571-11(2), HRS.

The Judiciary testified that this bill is a housekeeping measure that would correct the inconsistency of the "status offender" definition in the Hawaii Revised Statutes.

Your Committee finds that in 1983, the Legislature enacted Chapter 587, HRS, (Child Protective Act), to give the Family Court jurisdiction over certain abused and neglected children. Accordingly, Act 171 amended and renumbered Section 571-11(2) to delete references to these abused and neglected children. Due to an oversight, however, Section 571-2(17), HRS, was not amended and therefore, references to "status offenders" are inconsistent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 921 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 Peters and Jones.

SCRep. 562 Judiciary on H.B. No. 922

The purpose of this bill is to amend Chapter 582, HRS, by adding a new section that would authorize and direct the Governor to execute, with any other state, an amendment of the Interstate Compact on Juveniles, concerning Interstate Rendition of Juveniles alleged to be delinquent.

Your Committee heard testimony in support of H.B. No. 922 from the Judiciary, the Honolulu Police Department and from the Department of the Honolulu Prosecuting Attorney. Testimony indicated that presently, the Interstate Compact on Juveniles applies only to juvenile runaways or adjudicated delinquents. The bill does not address the situation where a state requests the return of or is requested by the demanding state to return a juvenile fugitive who has been charged with an offense but has not been adjudicated for that offense. H.B. No. 922 will extend the provision in Article V and VI to non-adjudicated juvenile fugitives.

Your Committee finds that there are times when juveniles flee the jurisdiction or their families move to the mainland. Justice is better served if the arrested juveniles are extradited and required to stand trial for the crime they are charged with.

Your Committee therefore agrees with the intent of this bill to provide an amendment to Compact concerning Interstate Rendition of Juveniles alleged to be delinquent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 922 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 Peters, Hemmings and Jones.

SCRep. 563 Judiciary on H.B. No. 1002

The purpose of this bill is to prohibit the impersonation of a law enforcement officer when the officer is employed by the State or subdivisions thereof or by the United States.

Your Committee is concerned about the increase in the incidence of police impersonators and believes it important to be able to prosecute those persons who impersonate law enforcement officers with the intent to deceive.

Your Committee agrees that the provisions of the bill should be adopted to prohibit such deceptions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1002 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 Shito and Yoshimura.

SCRep. 564 Judiciary on H.B. No. 124

The purpose of this bill is to encourage the use of mediation as an alternative to litigation by providing for the confidentiality of mediation proceedings.

The effectiveness of the mediation process hinges on the ability of participants to engage in candid discussion. H.B. No. 124 allows for more open expression.

The bill does, however, make provision for the disclosure of information where legal duty requires it.

Your Committee received testimony in support of the bill from the American Arbitration Association, the Neighborhood Justice Center, and the director of the Program on Conflict Resolution at the University of Hawaii among others.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 124 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 Shito and Yoshimura.

SCRep. 565 Judiciary on H.B. No. 1780

The purpose of this bill is to amend Section 626-1, HRS, to provide an exception to the ban against hearsay testimony for statements made by child witnesses under the age of ten describing any offense against the person pursuant to Chapter 707, HRS. Prior to admission of the statement and following a hearing outside the presence of the jury, the court must find reliability based on the time, content and circumstances of the hearsay statement.

Testimony in support of this measure was received from the Department of Social Services and Housing, the Honolulu Prosecuting Attorney's office, the Honolulu Police Department and the Sex Abuse Treatment Center.

Currently, the Hawaii Rules of Evidence do not permit hearsay statements based on both the United States Constitution and the Hawaii Constitution's guarantee of the right of confrontation of a witness by a criminal defendant.

Your Committee, however, received compelling arguments to indicate that subjecting a child under ten years of age to the stress and intimidation of the judicial system causes serious emotional trauma. In most cases, the child will freeze or recant his prior statements on the witness stand. The unfortunate result is the release of many suspects without the imposition of justice. This, in turn, increases the opportunity for further abuse of the child.

The Office of the Public Defender expressed concern that the new exception violates the rights of the defendant to confront the child. Your Committee, however, feels this measure significantly protects the child from further emotional trauma without reducing the rights of the defendant. Sufficient safeguards exist in the legal process to protect the rights of the defendant, including the test for reliability contained in this bill.

Your Committee amended the bill to lower the child's age from ten years to eight years. This brings the new evidence rule into general conformity with other statutes relating to children.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1780, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1780, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 566 Judiciary on H.B. No. 771

The purpose of this bill is to permit spouses to make valid contracts with each other except in one limited circumstance and to ratify any interspousal contracts already made which may violate the existing law.

Under present law a married person may make a valid contract with their spouse only in a very limited number of circumstances. These circumstances include deeds, assignments, business partnerships, and certain matters relating to marital and inheritance rights. These provisions have their origin in Section 2 of an Act Relating to the Property and Rights of Married Women enacted in 1888. That act gave married women the right to contract in their own name with persons other than their husbands. These provisions were subsequently amended to be gender neutral.

Testimony was received from George Dyer, a local attorney, that many attorneys are not aware of the restrictions in the present law and that invalid contracts such as employment agreements and agreements of sale between spouses are frequently drafted.

Your Committee finds that other common agreements between spouses such as trust agreements and powers of attorney could also be construed to be contracts and therefore be held invalid under the present law. Your Committee further finds that in view of contemporary societal standards, spouses no longer need the archaic protections from one another provided in the current law.

Your Committee has amended the bill to reinstate the provision requiring judicial approval of certain support and maintenance agreements when the agreement is made in contemplation of a divorce or legal separation. This provision was inadvertently proposed to be repealed.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 771, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 771, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Shito and Yoshimura.

SCRep. 567 Judiciary on H.B. No. 121

The purpose of this bill is to establish a "one day or one trial" jury service system. The bill also revives the Grand Jury Chapters 612-22(a), HRS.

Present law provides for a thirty day term for jury service. This bill proposes a one day-one trial standard. On completion of either, the juror is excused. The bill also increases the reasons for which a court may dismiss a juror: an excusal after voir dire, or for cause or where the juror is called to the court room then later excused. This bill also revises the list of exemptions from jury service. Finally, this bill gives the Chief Justice the option to control all aspects of the selection and management of jurors by rule.

The bill received favorable testimony from the Family Court division and other divisions of the Judiciary.

Your Committee therefore amended the bill to reduce the number of returns to the court for their one day. Because of the shorter period of jury service, many of the exemptions were deleted.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 121, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 121, H.D. 1.

Signed by all members of the Committee except Representatives Peters, Shito, Jones and Medeiros.

SCRep. 568 Judiciary on H.B. No. 1576

The purpose of this bill is to provide criminal penalties for the destruction or defacing of public property. The bill creates two classes of the offense, a Class C felony involving damage which is \$250 or more and a petty misdemeanor involving damage less than \$250.

As a matter of sentencing, the bill requires the mandatory performance of community service to repair the damage including the mandatory payment of restitution for the resultant loss or damage. If the defendant is a minor, the bill imposes the liability for restitution on the parents. The usual penalties of possible fines and/or incarceration equivalent to the offense class remain as sentencing options.

The Honolulu Police Department for themselves and on behalf of the Department of Education testified in support of this bill. The police, however, recommended raising the petty misdemeanor to a Class C felony.

Recognizing that felony offenses presently exist relating to the criminal damage of property, however, your Committee amended this bill to reduce the offense to a misdemeanor when damage is \$250 or more.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1576, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1576, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 569 Consumer Protection and Commerce on H.B. No. 1585

The purpose of this bill is to require the developer or any other person offering any apartment in a horizontal property regime for sale or resale a one-page summary of the final report by the Real Estate Commission which shall include all pertinent facts including surrender or reversionary clause.

Your Committee has received testimonies from the Real Estate Commission, the Hawaii Independent Condominium and Cooperatives Owners Association, the Hawaii Council of Associations of Apartment Owners, and interested attorneys and individuals.

Your Committee finds that the summary report will provide protection for buyers of condominium apartments and will provide understandable and full disclosure of pertinent facts.

Your Committee has considered the concerns of the testifiers and has amended the bill by creating a new section in Chapter 514A, Hawaii Revised Statutes, which will require certain documents to be kept at the managing agent's office. Copies of these documents shall be available to owners, prospective purchasers, and their respective agents during normal business hours. However, this requirement will not apply to horizontal property regimes that are not managed by a managing agent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H. B. No. 1585, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1585, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 570 Consumer Protection and Commerce and Judiciary on H.B. No. 520

The purpose of this bill is as follows:

(1) To authorize the Department of Commerce and Consumer Affairs (DCCA) to apply to a court for an injunction to restrain any violation of Chapter 439,

Hawaii Revised Statutes;

(2) To specify that the remedies or penalties delineated in Chapter 439 are cumulative;

(3) To provide a statutory definition of "beauty operator" which will encompass certified cosmetologists, hairdressers, cosmeticians, and manicurists;

(4) To allow the practice of barbering in a beauty shop;

(5) To delete the definitions of "classified occupations", "classified practice", "junior operator", and "operator" from appropriate statutory provisions;

(6) To prohibit cosmeticians from including apparatus or appliances considered to be prescriptive devices;

(7) To create consistent statutory definitions for "cosmetologist", "cosmetology", "manicurist", "managing operator", and "temporary permit";

(8) With the exception of beauty operators who practice their trade for educational purposes, to specify only persons registered as cosmetologists can practice their trade in this State, and only in registered beauty shops;

(9) To require that five members of the Board of Cosmetology be operators engaged in the practice of cosmetology and who are not affiliated with any school specializing in cosmetology;

(10) To require that apprentices and instructor-trainees be eighteen years of age and possess an education equivalent to four years of high school;

(11) To clarify that the categories of examinations shall be limited to cosmetologist, hairdresser, cosmetician, manicurist, and instructor;

(12) To require that a cosmetologist applicant shall be at least eighteen years or have an education equivalent to four years of high school, and has either four thousand hours of training as an apprentice, or one thousand eight hundred hours of training in a registered beauty school;

(13) To require that a hairdresser applicant be at least eighteen years old, or have an education equivalent of four years of high school, and has either two thousand hours of training as an apprentice, or five hundred fifty hours of training in a registered beauty school;

(14) To require that a manicurist applicant be at least eighteen years old, or have an education or equivalent to four years of high school, and has either seven hundred hours of training as an apprentice, or three hundred fifty hours of training in a registered beauty school;

(15) To allow an applicant who fails an initial examination to file another application with the required fees;

(16) To allow an applicant to apply for a temporary permit as long as the applicant continues to take the examination consecutively;

(17) To establish violations for which the Board may take disciplinary action, and the appropriate amount of fines it may impose for each violation;

(18) To provide a right to request a hearing within sixty days of the date of a certificate denial or refusal; and

(19) To provide technical and grammatical corrections to the bill to clarify the language of the provisions and for purposes of consistency.

Your Committees have received testimony from the Board of Cosmetology, the Hawaii State Cosmetology Association, the Kauai Cosmetologist Association and concerned individuals in support of the bill. Your Committees have considered some of the problems presented during the hearing and, accordingly, have made amendments to the bill as follows:

(1) Deleted all references to "managing operator", as your Committees have been informed that the term is misleading as it denotes a registered beauty

operator;

(2) Required that apprentices and instructor-trainees be sixteen years old and have the equivalent of four years of high school;

(3) Changed the requirement for a cosmetologist applicant to three thousand six hundred hours of training as an apprentice;

(4) Changed the requirement for a hairdresser applicant to either two thousand five hundred hours of training as an apprentice, or one thousand two hundred fifty hours of training in a registered beauty school;

(5) Changed the requirement for a cosmetician to one thousand one hundred hours of training as an apprentice; and

(6) Provided that an applicant may request a temporary permit only if the applicant passes the third examination as consecutively scheduled by the Board.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 520, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 520, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Yoshimura and Medeiros.

SCRep. 571 Judiciary on H.B. No. 250

The purpose of this bill is to permit the release of segregated public record information. Personal records as defined by Section 92E-1, Hawaii Revised Statutes, may not be released under this bill. Further, each agency maintaining public records must notify the supplying individuals of the authority permitting solicitation of the requested information, whether disclosure is required or not, the intended purpose of the information sought and possible routine uses, among other things.

Common Cause Hawaii and the American Association of University Women testified in support of the bill. The State Departments of the Attorney General and Consumer Affairs asked that your Committee hold the bill pending further study.

In light of recent publicity concerning the employment qualifications of certain public officials, your Committee amended the bill to provide for the release of personal records relevant to an appointed officials' qualifications. Your Committee also agrees with the Attorney General that the issue of any public and private records should await further study during the coming interim.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 250, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 250, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Peters, Shito, Jones and Medeiros.

SCRep. 572 Water, Land Use, Development and Hawaiian Affairs on H.B.
No. 1078 (Majority)

The purpose of this bill is to extend protection of instream uses to all streams in the State; to allow establishment of instream flow standards on a stream-by-stream basis; to exempt routine streambed and drainageway maintenance from stream channel alteration permit requirements; to allow the application of instream flow standards, where standards have been adopted, when allocating water from state watershed, including that pumped from wells and when regulating use of lands and water within the State Conservation District; to exempt persons wanting to renew water licenses without substantive modification from preparation of environment assessments; and to delete the expiration provision of Act 185, 1982.

Your Committee received considerable testimony in support of the intent of the bill with several amendments suggested. Your Committee has incorporated the

SCRep. 575 Consumer Protection and Commerce on H.B. No. 1525

The purpose of this bill as received by your Committee in its short form is to control unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce.

The purpose of the bill in its amended form is to establish definitions of "class action" and "de facto class action". The bill further provides that the penalties established for violations of Section 480-2, Hawaii Revised Statutes, and found in Section 480-13 (a), Hawaii Revised Statutes, shall not apply to class actions or de facto class actions. Class actions and de facto class actions as defined in the bill will be covered by the penalties provision of Section 480-13 (c), Hawaii Revised Statutes.

Your Committee has received testimonies from attorneys who have litigated in this area of law.

Presently, Chapter 480 has been interpreted by some courts as allowing individual plaintiffs who can prove that they have been injured because of an antitrust violation to recover a minimum amount of \$1,000 regardless of the actual amount of damages sustained. Other courts have decided differently. The applicable penalties provisions require classification. When this law was enacted, the Legislature did not intend to impose draconian measures upon defendants in the guise of enforcing our antitrust laws.

It is also the intent of your Committee that enactment of this Act will not affect any rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1525, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 576 Consumer Protection and Commerce on H.B. No. 1566

The purpose of this bill is to conform chapters in the Hawaii Revised Statutes administered by the Business Registration Division of the Department of Commerce and Consumer Affairs and affected by the implementation of the Hawaii Business Corporation Act, Hawaii Professional Corporation Act, and Hawaii Non-profit Corporation Act which become effective on July 1, 1987.

Your Committee has received testimony from the Department of Commerce and Consumer Affairs.

Your Committee notes that the Hawaii Business Corporation Act and the Hawaii Non-profit Corporation Act, Chapters 415 and 415B, respectively, become effective on July 1, 1987. These Acts will serve to repeal chapter 416, which is the current chapter regulating corporations. There are provisions in Chapters 419, 421, 421c, 421G, 422, 423, and 424 which refer to certain requirements specified under Chapter 416. This bill will conform the provisions in those chapters in accordance with the relevant sections of Chapters 415 and 415B.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1566, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 577 Consumer Protection and Commerce on H.B. No. 1931

Your Committee has received testimony from the Department of Commerce and Consumer Affairs, the Hawaii Credit Union League, the Retail Merchants of Hawaii, and the Hawaii Bankers Association which has presented deep concerns about this bill.

Your Committee has been informed that it is in the best interest of consumers that credit card issuers should be given the flexibility to structure their credit card agreements to meet the needs of both their own operations and the markets they serve.

Your Committee finds, however, that as an alternative to dictating the terms of credit card agreements, full disclosure of those terms will benefit consumers so that they may make more informed credit decisions.

Accordingly, your Committee has amended the bill by requiring that all credit card issuers must disclose any information regarding advertisement, solicitation, or application regarding credit cards.

Your Committee believes, however, that it would be reasonable to review the effects of a deregulated environment and increased disclosure within a reasonable period of time, and has provided, therefore, a repeal clause to become effective on June 30, 1994.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1931, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 1931, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 578 Consumer Protection and Commerce and Judiciary on H.B. No.
786

The purpose of this bill in its short form as received by your Committees is to allow a simplified version of deeds and other real property documents to be recorded or filed with the Bureau of Conveyances or Land Court.

The bill in its amended form established the recording of fictitious mortgage or deed of trust and its effect.

Your Committees have received testimonies from the Judiciary of the State of Hawaii, the Escrow Association of Hawaii, the Hawaii Financial Services Association, and the Mortgage Bankers Association in support of this bill. However, they also have presented concerns.

Accordingly, your Committees have amended the bill as follows:

1. Establish the procedure for the recordings and master mortgage and delete references to fictitious mortgage and deed of trust. Your Committees have been informed that these terms are used in California but not in Hawaii, and that the term master mortgage is commonly used. Therefore, your Committee have provided a definition for master mortgage.
2. Provide that master mortgages may be recorded in the Land Court where instruments pertaining to property are recorded also;
3. Restrict the application of the provision to a financial institution and the ability to record master mortgages as optional.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 786, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 786, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Yoshimura and Medeiros.

SCRep. 579 Planning, Energy and Environmental Protection and
Transportation on H.B. No. 1583

The purpose of this bill is to require an environmental impact statement (EIS) for the construction of new or expansion of existing helipads or heliports within the State.

Your Committees find that helicopter use for tour purposes has increased dramatically in Hawaii and indications are that this trend will continue in the future. Your Committees further find that by flying at low altitudes in residential as well as secluded areas these helicopters have significant adverse affects upon our environment well beyond the immediate vicinity of their landing and take-off facilities. Specifically, these flights can have significant impact on lands classified as conservation districts, shoreline areas and historic sites. The rapid growth of this industry coupled with the state's inability to restrict or regulate helicopter flight paths has allowed this problem to grow exponentially in magnitude.

Your Committees find that it is imperative that proposals for the construction of heliports and helipads be thoroughly assessed in terms of their impact on the environment, and that the potential impacts of such activities should be determined for as far as these aircraft are proposing to fly.

Your Committees feel that it would be more appropriate to require an environmental assessment to determine whether an EIS is needed rather than mandating an EIS for every case. In this regard, your Committees have amended this bill by proposing a new paragraph within Section 343-5(a), HRS, relating to helicopter facilities; and, by deleting the section mandating the submittal of an EIS for construction or expansion of existing helipads or heliports.

Your Committees on Planning, Energy and Environmental Protection and Transportation are in accord with the intent and purpose of H.B. No. 1583, as amended herein, and recommend it pass Second Reading in the form attached hereto as H.B. No. 1583, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hashimoto, Horita, Takamine, Taniguchi, Jones and Medeiros.

SCRep. 580 Planning, Energy and Environmental Protection; Agriculture;
 and Water, Land Use, Development and Hawaiian Affairs on
 H.B. No. 1468

The purpose of this bill is to provide for the exemption of agricultural parks under planning as well as zoning, subdivision, construction and building standards under certain conditions. This bill also directs the Land Use Commission to determine the approval or disapproval of an agricultural park in situations where a land use district boundary amendment is required.

Your Committees find that this bill is a "housekeeping" measure to conform the provisions for exempt agricultural park projects to those for exempt housing developments. This proposal is patterned after Act 93, SLH 1986, which made changes to Section 359G (4.1) and requires the Land Use Commission to process petitions for low-moderate income housing projects within a 45 day period. The provisions for agricultural park projects were originally based on those developed for exempt housing development projects, but have not been updated.

Following discussion on this measure, your Committees find that the proposed 45 day review period may restrict the Land Use Commission's capacity to adequately review proposals and conduct hearings. The Commission is currently in the process of amending its rules to include the 45 day procedure for processing housing developments as required under Act 93. In this regard, this bill has been amended by deleting all reference to the Land Use Commission within provisions which relate to the proposed 45 day review and approval process of agricultural parks.

Your Committees on Planning, Energy and Environmental Protection; Agriculture; and, Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No 1468, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1468, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bunda, Hashimoto, Kanoho, Lee, Tajiri and Pfeil.

SCRep. 581 Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 654

The purpose of this bill is to amend the current State Natural Area Reserves statute, Chapter 195, HRS, to establish more specific guidelines for the creation and management of Natural Area Reserves (NAR).

Your Committees find that the State has established the State NAR System to protect important natural areas within the vast inventory of State lands. Presently, the reserve system encompasses 108,000 acres of state lands in 18 established reserves throughout the islands. These reserves protect thousands of uniquely Hawaiian species, provide ideal sites for research and outdoor education and, in many cases, guard vital watershed lands.

Your Committees further find that most of these valuable areas are now suffering from serious management problems which threaten to permanently destroy or degrade the resources. Your Committees further find that without management, the high quality ecosystems which qualified as Natural Area Reserves in the first place will be degraded by invasions of alien plants, by foraging of both domestic and feral animals, and by the activities of humans.

This bill would help the Department of Land and Natural Resources (DLNR) to realize the initial vision of the Legislature. It gives the department broader powers under which to acquire and manage reserves, including the use of more innovative methods, such as private/public joint efforts and conservation easements, in order to foster increased cooperation with outside organizations in the identification, acquisition and management of reserves.

Your Committees further find that the DLNR currently submits annual reports. Accordingly, your Committees have amended this bill by deleting language in Section 1 which requires an annual report.

Your Committees feel that the NAR Commission is the appropriate body to establish criteria for NAR lands and have amended Section 2 of this bill to leave in existing statutory language.

Your Committees further find that the DLNR is not in the position to commit the State to financial obligations and have amended Section 3 of this bill by deleting language giving them power to do so.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 654, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 654, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Hashimoto.

SCRep. 582 Planning, Energy and Environmental Protection and Ocean and Marine Resources on H.B. No. 254

The purpose of this bill is to: establish a one gallon limit for the taking of sand, coral or other beach materials for personal use from a public beach; allow State or county sand mining for renourishing public beaches; eliminate the environmental impact statement requirements for routine maintenance projects in which government agencies clear sand from mouths of drainage and stream channels; prohibit the taking of sand and other materials from the Hakipu'u sandbar area; and clarify the jurisdictional authority of the county governments within the shoreline setback area.

Your Committees find that coral reefs perform an important part in maintaining the ecological stability of Hawaii's coastal and marine environment. Unfortunately, however, shallow water reef-building stony corals have come under heavy harvesting pressure in recent years. Coral reefs in many areas of the State have become seriously depleted and damaged due to uncontrolled coral exploitation for commercial sale or souvenir collecting. This bill will provide the State with the means to protect and manage Hawaii's shallow water coral reefs.

This bill has been amended in accordance with suggested amendments contained within testimonies presented to your Committees as follows:

§205-44 (a) HRS, relating to "Prohibitions" has been amended to clarify that the prohibition extends only to dead coral, coral rubble, rocks, soil or other beach deposits and that this section concerns county jurisdiction land-ward of the shoreline. This amendment differentiates between live coral and dead coral and appropriately eliminates reference to areas seaward of the shoreline which are beyond the jurisdiction of the counties.

Subsection (1) of the "Prohibitions" section has been amended by establishing a one gallon per person per day limit on the taking of dead coral or other marine deposits from the shoreline area. Your Committees find that a clear definition of reasonable, personal use should be established to facilitate effective enforcement of this provision. In addition, this subsection has been further amended to insure that in cases where county ordinances prohibiting the taking of such materials have been established, the stricter provision shall prevail.

In addition, subsection (3) of §205A-44 (a) has been amended to exempt beach cleaning activities for State or county maintenance purposes from the prohibitions established under this section. Finally, inasmuch as §205-44, HRS deals with the jurisdiction of the counties in areas land-ward of the shoreline, the language for the proposed new subsections (b) and (e) have been eliminated.

Your Committees have further amended this bill by establishing a new section amending §171, HRS. This amendment prohibits the mining or taking of sand, dead coral or coral rubble from areas seaward of the shoreline unless authorized by a permit issued under §183-41, HRS.

Finally, a new section amending §188, HRS has been added to prohibit the taking of live coral in waters one hundred fifty feet or less in depth, unless authorized by a permit issued under §183-41, and §187A-6, HRS.

Your Committees on Planning, Energy and Environmental Protection and Ocean and Marine Resources are in accord with the intent and purpose of H.B. No. 254, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No 254, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Hashimoto.

SCRep. 583 Health and Labor and Public Employment on H.B. No. 1738

The purpose of this bill is to establish a comprehensive community based program designed to create employment for the chronically mentally ill, to assist in increasing their employability, and to provide them with adequate housing within communities in the State.

Your Committees heard testimony from mental health professionals in the community, the Hawaii Psychiatric Society, the Hawaii Families and Friends of Schizophrenics, Inc., the Department of Health and several interested persons. Your Committees reviewed and carefully considered the testimony, and notes that one of the primary concerns expressed in the hearing on the bill is the need for active participation in the implementation of the program by those individuals who are most likely to be affected by the program.

Your Committees are sensitive to these concerns and believes that the affected individuals should be heard when the administrative rules are promulgated by the Department of Health to implement the program. Accordingly, your Committees, urge the Department of Health to actively encourage the participation of all affected individuals in the process of promulgating the rules to implement the program.

Testimony also revealed that the Hawaii Revised Statutes has a chapter which deals with a broad range of mental health concerns. In that connection, your Committees have amended the bill by placing its substantive provisions in Chapter 334 of the Hawaii Revised Statutes as a new part. The bill was also amended by deleting certain specific responsibilities of the staff which were listed on page 3 of the bill. Your Committees believe that the staff's responsibilities in "securing the living units and assisting participants in such activities as furnishing their units, grocery shopping, bill paying, money management, and obtaining medical care" should be established by the Department of Health within the framework of its rulemaking authority.

Your Committees on Health and Labor and Public Employment are in accord with the intent and purpose of H. B. No. 1738, H. D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H. B. No. 1738, H. D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Horita, M. Ige, Leong and Tungpalan.

SCRep. 584 Labor and Public Employment and Consumer Protection and
Commerce on H.B. No. 220

The purpose of this bill is to amend the definition of physician under Section 386-1, Hawaii Revised Statutes, to include psychologists. This measure would permit psychologists to treat workers' compensation claimants directly. Under the current workers' compensation statute, injured workers are unable to obtain the services of a psychologist unless they are referred by the treating physician. Specifically, only doctors of medicine, dentists, chiropractors, osteopaths, naturopaths and optometrists come within the present definition of "physician".

Your Committee received testimony in support of this measure from the Hawaii Psychological Association and numerous psychologists and physicians. Their testimony indicated that psychologists are licensed health care professionals in the State of Hawaii and recognized as independent providers by all major health insurance carriers (Hawaii Medical Services Association, Blue Cross/Blue Shield, Champus, Aetna, and others). As such, no physician referral or direction of services for psychologists is required. It was also noted that psychologists are able to act independently under the Federal government and California workers' compensation systems.

Representatives from the Hawaii Independent Insurance Agents Association and the Hawaii Insurers Council (HIC) submitted testimony in opposition to this bill. They stated that psychologists are not licensed to practice medicine, and lack the training or expertise of physicians. Thus, the law should not define them as such. The HIC also warned that the measure would permit any working person who felt some emotional stress to obtain the services of a psychologist. The State workers' compensation fund, as a result, might incur substantial costs which are contrary to statutory intent.

The State Department of Labor and Industrial Relations (DLIR) raised similar issues in their testimony, emphasizing that the workers' compensation program, unlike other insurance programs, requires an employee to select one attending physician who is responsible for coordinating the entire treatment program. The attending physician must therefore have the knowledge and expertise to diagnose and treat all aspects of an injured workers' medical condition. It was the opinion of DLIR that psychologists are without the extensive medical training and background to act in the capacity of an attending physician. DLIR likewise questioned whether the intent of Chapter 386 would be met under the proposed amendment.

Your Committees find no compelling reason to exclude psychologists from the definition of physician under Section 386-1, Hawaii Revised Statutes. Psychologists, like the other health professionals currently recognized as physicians for workers' compensation purposes, receive extensive training and education and are subject to State licensure requirements. And it should be noted that Act 68, Session Laws of Hawaii, 1985, established more stringent licensing standards for psychologists to better protect the public. The recognition of psychologists as independent health care providers appears consistent with the intent and purpose of the workers' compensation statute.

Your Committees share the concerns expressed by representatives of the insurance industry regarding possible increases in workers' compensation costs as a result of this legislation. However, no evidence was presented that proved increased costs will be an inevitable consequence. In fact, testimony suggested that improved accessibility to psychological services may actually reduce medical expenditures, while the fee schedule already established under Chapter 386, Hawaii Revised Statutes, serves as a safeguard against abuse and overcharges by psychologists.

Moreover, your Committees note that concerns regarding cost containment were considered in the 1985 session with the passage of Act 296. In Section 5 of the

Act, the Director of Labor and Industrial Relations was authorized to promulgate guidelines for the frequency and treatment of claimants and psychologists were included among health care providers for proper review of their qualifications.

Your Committees on Labor and Public Employment and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 220, 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 Takamine.

SCRep. 585 Labor and Public Employment on H.B. No. 367

The purpose of this bill is to provide public employees the essential requirements of due process when they are subject to discharge. Public employees are also assured that the ultimate form of adverse action against them will not be taken except when there is just and proper cause following compliance with progressive or corrective discipline principles.

Your Committee has reviewed and carefully considered the manner in which public employers terminate misbehaving employees. We have also examined the standards of constitutional due process enunciated by the U.S. Supreme Court in Cleveland Board of Education v. Loudermill, 470 U.S. ___, 84 L ED 2d 494. We adopt as a standard Justice White's statement of due process requirement:

The tenured public employee is entitled to oral or written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story.

The foregoing requirements are therefore incorporated into Hawaii Revised Statutes, Section 76-46. Your Committee has made nonsubstantive changes for purposes of style and clarity.

Moreover, your Committee believes that principles of corrective and progressive discipline should be followed by public employers. Discharge being the ultimate form of penalty for employee misconduct, a public employee should be terminated after proper warning, suspensions, or other forms of disciplinary actions have been exhausted.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 367, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 367, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 586 Labor and Public Employment on H.B. No. 371

The purpose of this bill is three-fold: (1) To change the unit designation for unit 10 under Section 89-6(a) to a less offensive and more appropriate unit description; (2) To establish a standard for review of the showing of interest required to support a petition for decertification under Section 89-7; and (3) To clarify and amend limitations on negotiable subjects currently specified in Section 89-9(d).

Your Committee has reviewed and carefully considered the testimony on this measure and finds that since collective bargaining in the public sector began in 1970, public employers and representatives of public employees have shared and developed a relationship of mutual trust and respect for each other. An examination of the collective bargaining agreements which have been jointly produced by the public employers and unions indicate no infringement on the merit principles or the principle of equal pay for equal work. Furthermore, your Committee finds that while negotiated contracts contain numerous sections governing employee examinations, hirings, promotions, demotions, discharges, disciplinary actions, layoffs, and matters which affect the operations of government, there has been no compromise of managerial prerogatives which assure us that the mission of government is efficiently carried out.

To avoid any conflict which might otherwise arise between the literal reading of

certain portions of Section 89-9(d) and existing collective bargaining agreements, your Committee has deleted those provisions which are overly broad and may unduly restrict the scope of collective bargaining. In doing so, we have also reaffirmed an earlier commitment that public employers retain the managerial right and responsibility to direct employees and to maintain efficiency in government operations at all time.

Your Committee has also received testimony from a representative of public employees in unit 10 who has complained that their bargaining unit designation is offensive to some because it implies that employees in the unit are "nonprofessional". Your Committee finds that no such offense was intended by the Legislature. However, a more descriptive type of unit designation would be appropriate. No change in bargaining unit content is sought by the new unit 10 designation of "institutional, health, and correctional workers".

Finally, your Committee has carefully considered testimony suggesting that a procedure and appropriate standard be established to verify that petitions seeking decertification of employee representative are truly supported by public employees in sufficient number. Under current law, any petition for a representation election requires support from thirty per cent of the affected bargaining unit evidenced by petitions which have been signed within six months of the filing for an election. There is no procedure established by the board to verify employee signatures and to insure that the true desires of the petitioning employees is shown in a timely and appropriate manner. Since the potential for fraud, misrepresentations, and other misdeeds exists, Section 2 of this Act requires the Hawaii Labor Relations Board to conduct a thorough investigation and hearing prior to any decertification election so that a valid and adequate showing of employee interest in a change of representation is clearly demonstrated. Judicial review from any determination of the board is also mandated before any election is conducted whenever a valid challenge to a showing of interest is presented.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 371, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No 371, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 587 Transportation on H.B. No. 1176

The purpose of this bill is to clarify the use of permanent dealer license plates by deleting existing statutory language which allowed the use of these plates on any new vehicle operated by the dealer "exclusively for the purposes of his business". In addition, this bill removes the provision of "general distinguishing" and "symbol" plates, making permanent number plates mandatory, and also adds a definition for "new motor vehicles".

Present statutes have been challenged in court by several new motor vehicle dealers who have received citations for attaching the permanent dealer license plates to new vehicles utilized by management and certain sales personnel. In several instances, the court dismissed the citations because the statutes were deemed as being ambiguous. One court ruled that the statute seemed to indicate that the dealers were authorized to place these permanent dealer license plates on any new vehicle which is operated "exclusively for the purpose of his business".

Your Committee finds that clarification is needed since the purpose of the permanent dealer plates is for new motor vehicle demonstrators, and not to exempt from taxes and fees all motor vehicles used by a vehicle dealership for the conduct of their business.

Technical, nonsubstantive amendments were made to correct for drafting errors and for the purposes of clarity and consistency.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1176, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1176, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.