

SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. No. 1

Your Committee on Credentials begs leave to report that it has examined the Certificates of Election of the Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1983, and finds that the following persons have been legally elected and are fully qualified to sit as members of the Senate.

The elected Senators whose respective terms of office will expire in 1984 are:

FIRST SENATORIAL DISTRICT

Dante K. Carpenter

SECOND SENATORIAL DISTRICT

Richard Henderson

FOURTH SENATORIAL DISTRICT

Mamoru Yamasaki

SIXTH SENATORIAL DISTRICT

W. Buddy Soares

EIGHTH SENATORIAL DISTRICT

Ann Kobayashi

TENTH SENATORIAL DISTRICT

Clifford T. Uwaine

THIRTEENTH SENATORIAL DISTRICT

Milton Holt

FIFTEENTH SENATORIAL DISTRICT

Richard S.H. Wong

SIXTEENTH SENATORIAL DISTRICT

Norman Mizuguchi

EIGHTEENTH SENATORIAL DISTRICT

Patsy K. Young

TWENTY-THIRD SENATORIAL DISTRICT

Ralph K. Ajifu

TWENTY-FOURTH SENATORIAL DISTRICT

Mary George; and

The newly elected Senator whose term of office will expire in 1984 is:

SEVENTH SENATORIAL DISTRICT

Steve Cobb

The newly elected Senators whose respective terms of office will expire on November 2, 1986 are:

THIRD SENATORIAL DISTRICT

Malama Solomon

FIFTH SENATORIAL DISTRICT

Gerald K. Machida

NINTH SENATORIAL DISTRICT

Bertrand Kobayashi

ELEVENTH SENATORIAL DISTRICT

Neil Abercrombie

TWELFTH SENATORIAL DISTRICT

Anthony K.U. Chang

FOURTEENTH SENATORIAL DISTRICT

Duke T. Kawasaki

SEVENTEENTH SENATORIAL DISTRICT

Joseph T. Kuroda

NINETEENTH SENATORIAL DISTRICT

James Aki

TWENTIETH SENATORIAL DISTRICT

Benjamin J. Cayetano

TWENTY-FIRST SENATORIAL DISTRICT

Gerald T. Hagino

TWENTY-SECOND SENATORIAL DISTRICT

Charles T. Toguchi

TWENTY-FIFTH SENATORIAL DISTRICT

Lehua Fernandes Salling.

Signed by Senators Young, Yamasaki and George.

Your Committee on Judiciary which was requested by S.R. No. 139, S.D. 1 (1982), entitled: "REQUESTING AN INVESTIGATION OF THE ALLEGATIONS OF BRUTALITY AGAINST INMATES OF THE OAHU COMMUNITY CORRECTIONAL CENTER ARISING FROM AND OF THE PROCEDURES UTILIZED IN THE PRISON SHAKEDOWN," to undertake an investigation, begs leave to report as follows:

The purpose of this investigation concerned the allegations of brutality against inmates resulting from and of the procedures utilized in conducting the December 14-18, 1981 prison shakedown at the Oahu Community Correctional Center.

Your Committee held eighteen (18) hearings and called over sixty (60) witnesses in the course of its investigation. There were seven (7) subpoenas and fifty-four (54) subpoenas duces tecum issued. Twenty-one (21) witnesses invoked the privilege of the Fifth Amendment and five (5) witnesses were granted witness immunity under Chapter 621C of the H.R.S.

Your Committee has completed a comprehensive report of its findings, conclusions and recommendations.

Because of the nature of the materials enclosed, which is confidential and may be defamatory, prejudicial, or incriminatory, the Committee recommends that:

- (1) A condensed version of the report, excluding the above materials, be released to the Senate; and
- (2) the unedited report complete with all testimonies given under oath and all exhibits, be placed in the custody of the Judiciary and/or the Legislative Reference Bureau to be accessed only through appropriate legal processes.

Your Committee notes that at the conclusion of its investigation, the committee's membership was reduced to eight members due to one member's resignation from office and the expiration of the terms of two members.

Your Committee on Judiciary has adopted this report and is herewith transmitted in its entirety.

Signed by Senators Carpenter, Cayetano, George, Kuroda, Uwayne, Cobb, A. Kobayashi and Soares.

Spec. Com. Rep. No. 3

Your Committee to Investigate the Problem of the Pesticide Heptachlor in Locally Produced Milk appointed pursuant to S.R. No. 73 (1982), entitled: "ESTABLISHING A SPECIAL COMMITTEE TO INVESTIGATE THE PROBLEM OF THE PESTICIDE HEPTACHLOR IN LOCALLY PRODUCED MILK," begs leave to report as follows:

The purpose of your Committee was to investigate the problem of contamination in locally produced milk with the pesticide heptachlor. Your Committee was also charged with the responsibility of determining how the milk became contaminated, the source or sources of contamination, how long the milk had been contaminated prior to notification of the general public, the handling of the incident by the state Department of Health, and recommendations to prevent such future incidents.

In the course of your Committee's investigation ten hearings were held. Representatives from the Department of Health, Department of Agriculture, University of Hawaii, the dairies, dairy farmers, as well as other scientists, physicians, and experts were questioned under oath by the Committee. The Committee used its subpoena powers to obtain records from state agencies and private parties.

The Committee also met with representatives from the U.S. Environmental Protection Agency and the U.S. Food & Drug Administration to discuss discrepancies between the EPA and DOH test results on historical milk samples and the reassessment of the public's exposure to heptachlor.

The Committee staff, in its efforts to obtain and clarify information, conducted follow-up interviews, made numerous telephone inquiries, and analyzed milk production records and other documents.

Your Committee has completed a comprehensive report of its findings, conclusions and recommendations. Copies of the report are on file with the Senate Clerk's Office and the Legislative Reference Bureau.

Your Committee has adopted this report and is herewith transmitted in its entirety.

Signed by Senators Cayetano, Kawasaki, Cobb, Ajifu, Carpenter, Yamasaki
and A. Kobayashi.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 274

The purpose of this bill is to improve the operation and administration of the law relating to motor vehicle reparations by clarifying the definition of "motor vehicle", requiring insurers to pay no-fault claims within 30 days, providing that payment of no-fault benefits be paid primary to social security and workers' compensation benefits, and allowing the insurance commissioner to award attorney's fees in no-fault administrative hearings and retain jurisdiction over claims which exceed \$5,000 solely by virtue of late-payment penalties.

Your Committee feels that requiring payments within 30 days of receipt by the insurer of reasonable proof of claim and demand for payment will assure that accident victims are paid within a reasonable amount of time. There was testimony that some insurers excessively delay payments to their insureds. Presently, there is no requirement that an insurer pay a no-fault claim within any time period although interest begins to accrue after 30 days at 1 1/2% per month. This bill also imposes a penalty for untimely payment.

Upon further consideration, your Committee has amended H.B. No. 274, H.D. 1, S.D. 1, to provide that no-fault benefit payments be made secondary to worker's compensation payments and primary to social security payments, and to correct typographical errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 274, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 274, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Chang and Henderson
Managers on the part of the Senate

Representatives Shito, Kim Baker, Ikeda and Lardizabal
Managers on the part of the House

Conf. Com. Rep. No. 2 on H.B. No. 278

The purpose of this bill is to increase from 15 to 30 days the initial period in which the insurance commissioner must approve or disapprove rate filings, require an announcement of such filings to all insureds, and delete retroactive application of the rate increases.

Your Committee recognizes that technological and logistical requirements of rate review require additional time. It also believes that rate increases should not be retroactive.

Your Committee upon further consideration amended H.B. No. 278, H.D. 1, S.D. 1 to require that announcements only apply to approved workers compensation filings, instead of to all casualty and property filings. The announcement must be published in a newspaper of general circulation in the State at least 30 days prior to the effective date.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 278, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 278, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Uwaine and Henderson
Managers on the part of the Senate

Representatives Shito, Kim, Lardizabal, Matsuura and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 3 on H.B. No. 286

The purpose of this bill is to eliminate the position of secretary and treasurer of the board of barbers; to assign an executive secretary to service the board; to eliminate the requirement that three board members be Oahu residents and two board members be residents of the neighbor islands; and to change the board's meeting

dates from the second Tuesday of January and July to once in January, April, July, and October of each year.

Your Committee upon further consideration has made nonsubstantive bill drafting amendments to H.B. No. 286, H.D. 2, S.D. 1, to correctly change the reference to the "director of regulatory agencies" to the "director of commerce and consumer affairs" by use of brackets and underscoring.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 286, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 286, H.D. 2, S.D. 1, C.D. 1.

Senators Cobb, Chang, Holt and Soares
Managers on the part of the Senate

Representatives Shito, Andrews, Hayes, Honda, Levin and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 4 on H.B. No. 291

The purpose of this bill is to redefine dentistry, delete the detailed provisions of fraudulent advertising by dentists, delete the provision for good character, require all applicants to take a written as well as a practical examination, change the sequence of filing and satisfying examination requirements for foreign dental applicants, amend section titles to clearly distinguish those who are graduates of dental colleges accredited by the American Dental Association and those who are not, delete the office of secretary and treasurer of the board and provide for a vice-president, delete the requirement to submit an annual report to the Governor, delete outdated provisions, neuter references to the male gender, and make technical changes for clarity.

Your Committee upon further consideration has made the following amendments to H.B. No. 291, H.D. 1, S.D. 1 to:

- (1) Clarify that the false statements prohibited by this bill are false statements related to one's practice of dentistry;
- (2) Correct the method of changing the reference to the "director of regulatory agencies" to the "director of commerce and consumer affairs" by use of brackets and underscoring; and
- (3) Correct typographical and bill drafting errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 291, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 291, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Kim, Hirono, Ikeda and Taniguchi
Managers on the part of the House

Conf. Com. Rep. No. 5 on H.B. No. 659

The purpose of this bill is to extend the repeal date of Chapter 444, Hawaii Revised Statutes, relating to the Contractors Licensing Board, from December 31, 1983 to December 31, 1989. The Board was originally scheduled to be sunsetted as of December 31, 1983.

The bill also provided for the following amendments:

- (1) Section 444-11(4), requiring that an applicant for a contractors license be a resident of the State for one year, was deleted on the basis of probable unconstitutionality.
- (2) Section 444-12(b), requiring that every license application be accompanied by at least two certificates swearing "that the applicant bears a good reputation for honesty, truthfulness, and fair dealing," was also deleted on the same basis as Section 444-11(4).

- (3) The maximum amount obtainable by an injured party from the Contractors Recovery Fund, as provided in Section 444-26, was raised from \$10,000 to \$15,000, and the initial contribution into the fund was raised from \$150 to \$250 per licensee. In addition, the maximum liability for any licensed contractor, as provided in Section 444-34, was raised from \$20,000 to \$30,000. These increases reflect increased costs and were designed to provide additional protection for consumers.
- (4) The minimum balance at which action must be taken to replenish the Contractors Recovery Fund, as provided in Section 444-27, was raised from \$150,000 to \$250,000, and the additional contribution should the fund dip below the minimum, was raised from a maximum of \$150 to a maximum of \$250, to reflect increased costs and to afford a greater measure of protection to consumers.

Your Committee upon further consideration has made the following amendments to H.B. No. 659, S.D. 1:

- (1) Increases the maximum amount recoverable by an injured party from the Contractors Recovery Fund from \$10,000 to \$12,500;
- (2) Provides for the retention of the current fee of \$150 which each applicant must deposit initially in the Contractors Recovery Fund; and
- (3) Increases from \$20,000 to \$25,000 the maximum liability of the Contractors Recovery Fund for any licensed contractor.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 659, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 659, S.D. 1, C.D. 1.

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

Representatives Shito, Kim, Ikeda, Taniguchi and Tom
Managers on the part of the House

Conf. Com. Rep. No. 6 on H.B. No. 502

The purpose of this bill is to allow the testing of newborn children for congenital hypothyroidism and phenylketonuria (PKU) and to direct the department of health to adopt rules concerning administration of the tests, record keeping, and the reporting of positive test results.

Your Committee finds that it is necessary to test newborn infants for both hypothyroidism and PKU. Existing law requires the PKU test only. Most physicians choose to test newborn children for both diseases since failure to diagnose and treat them results in profound mental retardation that often requires institutionalization. However, the department of health estimates that each year approximately 900 infants are not tested for hypothyroidism.

Your Committee has amended the bill to mandate testing of newborn children for hypothyroidism and PKU, provided the tests do not conflict with parents' or guardians' religious beliefs. Page 1, section 2 of the bill has been amended accordingly.

The bill, in its present form, requires the department of health to administer reporting and record-keeping programs for hypothyroidism and PKU. Your Committee finds this entails the design and maintenance of a registry for the 18,000 infants born each year. Although the registry is presently mandated for PKU tests, the department cannot maintain it due to lack of funding. It appears that newborn infants are tested for PKU and the requirement in Section 333-1, Hawaii Revised Statutes, pertaining to PKU tests, is met. Thus, your Committee has amended the bill by deleting the department's responsibility for administering reporting and record-keeping programs for hypothyroidism and PKU. Page 1 and 2, section 2 of the bill has been amended accordingly.

It is emphasized that your Committee does not oppose the registry as a means of ensuring the testing and immediate treatment of newborn infants. Your Committee does expect the department of health to initiate action by way of a budget request for the establishment and maintenance of a registry for hypothyroidism and PKU testing.

Your Committee has made technical, nonsubstantive amendments, including a new title for Chapter 333, Part 1, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 502, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 502, H.D. 2, S.D. 2, C.D. 1.

Senators B. Kobayashi, Machida and Ajifu
Managers on the part of the Senate

Representatives Baker, Chun, Hagino, Ige and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 7 on S.B. No. 236

The purpose of this bill is to require the Board of Medical Examiners to develop standards for informed consent, insofar as practicable, commencing with mastectomies.

Current law requires the Board to provide standards for informed consent across the full range of medical procedures. However, the issue of just what constitutes the proper information to be conveyed to breast cancer patients continues to be a concern because the ailment is relatively common and is widely treated by a procedure that is disfiguring and psychologically deeply disturbing.

This bill directs the Board of Medical Examiners to establish standards for giving information to mastectomy patients or their guardians by January 1, 1984, such standards to include the substantive content of the information to be conveyed and the manner in which information and consent are to be given. The substantive content of the information is to include the recognized alternative forms of treatment.

Your Committee is cognizant of the fact that there are literally thousands of medical procedures subject to consent and that the Board cannot be reasonably expected to develop standards for each one. However, there are some procedures that are so controversial and serious that they should receive special attention. Accordingly, your Committee intends that the Board should proceed as expeditiously as possible to address controversial procedures, such as mastectomy, and report its progress to the 1984 Legislature, together with its plans for the further development of informed consent standards. Your Committee notes that to comply with this directive, the Board may have to defer developing standards for routine, noncontroversial, or well-established procedures.

Your Committee has amended the bill by reinserting the language, inadvertently omitted from H.D. 1, which provides that if the standards established by the Board include provisions designed to inform a patient or a patient's guardian of various factors and alternatives, "then the standards shall be admissible as evidence of the standard of care required of the health care providers." This addition does not alter the intent or purpose of the measure but rather corrects a drafting oversight.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 236, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 236, S.D. 1, H.D. 1, C.D. 1.

Senators Machida, B. Kobayashi and Young
Managers on the part of the Senate

Representatives Baker, Stanley, Apo, Hagino, Hirono, Leong and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 8 on S.B. No. 191

The purpose of this bill is to delete the requirement that the Board of Certification for Practicing Psychologists submit an annual report to the Governor.

A memorandum issued by the Deputy Director of Commerce and Consumer Affairs indicates that of the thirty boards and commissions placed within the Department of Commerce and Consumer Affairs, fifteen are required to submit annual reports either to the Governor or the Legislature. Your Committee finds that the Legislature's

ability to elicit information will not be affected if the annual report requirement is eliminated since quarterly reports are provided to the Department of Commerce and Consumer Affairs. Further, your Committee has been assured that any information called for in the annual report is readily available to the Governor upon request.

Your Committee upon further consideration has amended S.B. No. 191, S.D. 1, H.D. 1, to make technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 191, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 191, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Shito, Hayes, Kim, Taniguchi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 9 on S.B. No. 450

The purpose of this bill is to prohibit resident managers and managing agents from voting or casting proxies at any board meeting on any issue in which the manager or agent has a conflict of interest.

Currently the statute only restricts members of the Board of Directors from voting or casting proxies if there is a conflict of interest. Your Committee finds that extending the prohibition to resident managers and managing agents, in such circumstances, is essential to fair condominium management.

Your Committee has amended the bill by deleting the reference to paragraph (14), which occurred on page 5, lines 8 and 9. Your Committee finds the reference to be misplaced and out of context.

Your Committee has further amended the bill by making a technical change which has no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 450, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 450, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Uwaine and Henderson
Managers on the part of the Senate

Representatives Shito, Hayes, Hirono, Honda and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 10 on H.B. No. 621

The purpose of this bill was to provide that any person engaged in the practice of speech pathology or audiology on or before September 1, 1981 as an employee of or under contract to a local or state government agency shall be deemed in compliance with licensure requirements without the need for a written examination provided these employees remain employed by the government agency.

Currently, the law states that all speech pathologists and audiologists employed by a government agency shall comply with the licensing requirements by December 31, 1984. Your Committee finds that while private sector professionals need to be licensed as an assurance for the protection of the general public, in the government sector, speech pathologists and audiologists are already required to pass stringent certification requirements and academic standards. Your Committee intends that this exemption apply to employees only so long as they continue such employment. If an individual leaves government service, he or she must comply with the licensing requirements.

Your Committee upon further consideration has amended the bill to extend the cut-off date from September 1, 1981, to October 1, 1981. This amendment is to insure coverage of all employees who are intended to be grandfathered into the licensing exemption under this bill, but for technicalities, would have been excluded by use of the September 1, 1981 date.

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

No. 621, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 621, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Kuroda, Uwaine, Yamasaki and Soares
Managers on the part of the Senate

Senator Soares did not sign the report.

Representatives Shito, Honda, Matsuura, Tungpalan and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 11 on H.B. No. 915

The purpose of this bill is to restate and clarify the intent of the Legislature in enacting Sections 294-6(a) and 294-36(b), Hawaii Revised Statutes, concerning the barring of suits by uninsured motorists for injuries sustained in motor vehicle accidents. That intent was, and still remains:

- (1) To prevent a person who is ineligible for no-fault benefits from bringing a civil action if the medical-rehabilitative limit is not reached within two years of the date of the motor vehicle accident; and
- (2) To deter persons from driving without motor vehicle insurance coverage, not only through criminal penalties, but further through a limitation on the ability of the uninsured motorist to recover for injuries in tort which is more stringent than the limitation placed upon those who have obtained the insurance coverage required by law, and who are therefore entitled to no-fault benefits.

The majority opinion of the Hawaii Supreme Court in both Joshua v. MTL, Inc. (#8177 December 29, 1982) and McAulton v. Goldstrin (#8071 December 30, 1982) misread the intent of the Legislature and may have removed all no-fault law limits on the time in which an uninsured motorist may bring an action for recovery in tort. The effect of the decisions is that law abiding citizens who obtain coverage may not sue in tort under Section 294-6(a)(2), Hawaii Revised Statutes, unless they reach the medical-rehabilitative threshold within two years of the last payment of no-fault benefits, whereas persons who have failed to obtain coverage can sue without first having to reach the threshold.

The system of no-fault insurance established by Chapter 294, can only be effective if all drivers participate to the extent required by law. This bill treats uninsured drivers more severely than those who obtain the legally required coverage with the specific legislative intent of encouraging participation by all drivers in the no-fault insurance system. Since the Legislature has provided for persons who are economically unable to afford insurance under the public assistance provisions of the no-fault law, there is no valid reason for owners of motor vehicles not to have no-fault insurance for the motor vehicles which they use.

The bill also establishes a \$1,000 fee in lieu of fine, for failing to obtain no-fault coverage, for any uninsured person bringing on action in tort, and by providing that Section 294-6 shall apply regardless of the injured person's entitlement to no-fault benefits.

Your Committee upon further consideration has amended the bill as follows:

- (1) Provides for the intervention of the Attorney General, at the request of the Insurance Commissioner, in any case before any appellate court in the State of Hawaii in which the constitutionality or validity of Chapter 294, Hawaii Revised Statutes, or any part thereof is at issue, and may appeal to the United States Supreme Court, if necessary, to obtain a final determination of any case; and
- (2) Provides that Section 294-6, Hawaii Revised Statutes, regarding tort liability shall apply whether or not the injured person is entitled to receive no-fault benefits.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 915, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 915, S.D. 1, C.D. 1.

Senators Cobb, Chang, Uwaine and Soares
Managers on the part of the Senate

Representatives Shito, Lardizabal, Taniguchi, Tungpalan, Graulty and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 12 on S.B. No. 55

The purpose of this bill is to replace existing state statutes which regulate the operation of profit corporations with an amended version of the Model Business Corporation Act ("Model Act").

Your Committee notes that various provisions of the Model Act have in the past been used as a basis for the revision of certain provisions of Hawaii corporation law. Your Committee also notes that over twenty states have adopted the basic form and substance of the Model Act.

This bill amends present Hawaii law extensively in numerous areas and adds provisions in areas where present law is silent. Other drafts of this bill have conformed various provisions of the Model Act to Hawaii Law. Additionally, other provisions have been added in Section -54 and Section -125 which require certain additional information of incorporators, directors, officers and stock subscribers of corporations, both in initial documentation and in annual statements filed with the Department of Commerce and Consumer Affairs.

Your Committee finds that the enactment of this bill will provide corporations and corporate practitioners with the advantage of the drafters' comments and stated intent, and an established body of judicial interpretation collected from jurisdictions that have adopted the Model Act. In those areas where existing Hawaii law is incorporated into the bill, existing Hawaii case law will continue as a basis for interpretation.

Your Committee has amended the bill by deleting provisions in the bill relating to permissive increases in share voting requirements beyond a simple majority for the approval of certain corporate actions in Sections -59(c), -73(a), -79(c) and -84(c). Your Committee finds that the provisions of Section -143 adequately address this discretionary right of share holders.

Your Committee has also made technical corrections to the bill.

A summary of the major substantive provisions of this bill and its relation to current Hawaii Law is as follows:

New Provisions in Model Act:

<u>Model Act Section</u>	<u>Model Act Provision</u>
-2	Provides definitions of certain terms used throughout Model Act.
-7	The defense of <u>ultra vires</u> , where an act or conveyance is invalidated because of incapacity of the corporation to so act, is abolished except in certain insider actions.
-17	Provides specific procedures for subscription and payment of shares.
-20	Issuance of rights or options by corporation for purchase of its shares.
-24	Provisions for dealing with fractional share interests.
-28	Provisions for calling special shareholder meetings are included in the Model Act.
-29	Specific requirements for notice to shareholders of annual meetings.

- 30 Model Act specifies purposes and dates for the closing of stock transfer books and fixing of record date.
- 31 Personal liability for corporate agent for damage to a stockholder for failing to maintain stockholder lists.
- 32 Specifies that quorum is a majority of shares entitled to vote at a meeting unless the articles provide otherwise, in which case, quorum may not be set at less than one-third of the shares entitled to vote.

New Provisions in Model Act

<u>Model Act Section</u>	<u>Model Act Provision</u>
-33	Specific recitation of voting rights of treasury, pledged and redeemed shares.
-35	Directors need not be shareholders unless specified by the corporation; directors deemed to assent unless dissent is recorded.
-36	Number of directors may be changed by amendment to the articles or bylaws.
-40	Establishes a quorum requirement for action taken by directors.
-41	Establishes standards for the transaction of corporate business where directors have a conflict of interest.
-43	Provisions for the time, place and notice of board meetings are established.
-49	Codifies existing rules of court and common law regarding shareholder derivative actions.
-51	Removal of officers authorized by directors.
-55	Filing procedures and requirements set forth in one section.
-57	Establishes requirement that the board meet after filing the articles to adopt bylaws, elect officers and transact other business.
-58	Provides list of acceptable amendments to articles.
-63	Specifies the effect of an amendment to the articles of a corporation.
-65	Permits amendments to the articles of incorporation in reorganization.
-72A	Share exchanges to combine corporations are authorized.
-82	Incorporators may voluntarily dissolve the corporation prior to commencement of business and issuance of shares.

New Provisions in Model Act

<u>Model Act Section</u>	<u>Model Act Provision</u>
-88	Revocation of voluntary dissolution by shareholders is permitted before the certificate of dissolution issued, by the unanimous written consent of the shareholders.
-89	Revocation of voluntary dissolution by the board with the approval of a majority of shareholders.
-90, -91	Statement of revocation of voluntary dissolution required to be filed, at which time dissolution ceases and business is resumed.
-104	Provisions established for the disposition of assets belonging to shareholders or creditors who cannot be located, are unknown or who cannot receive such assets, according to the State Uniform Unclaimed Property Act.
-105	Preserves tort remedies against dissolved corporation for two years after date of dissolution or the date of the event giving rise to the claim.
-108	Foreign corporation's name must contain a word indicating corporate status and must be consistent with its purpose as stated in its articles.
-109	Authorizes the suspension of the certificate of a foreign corporation when it changes its name to one not allowed.
-113	Registered agent may be a corporation.
-122	Issuance of certificate of revocation of authority to transact business by a foreign corporation by director authorized.
-123	Applies provisions of Model Act to foreign corporations currently authorized to do business.
-127	Provides authority for the director to charge fees.

New Provisions in Model Act

<u>Model Act Section</u>	<u>Model Act Provision</u>
-129	Fee of \$25.00 to be assessed for certification of document and for service of process on the director.
-136	Penalty for failure to answer on interrogatory of the director or who knowingly signs a false statement is guilty of a misdemeanor.
-137	Director is authorized to require answers to interrogatories from corporations to determine if provisions of the Act are being complied with.
-138	Interrogatories and responses thereto are not open for public inspection.

- 139 Delegation of power to administer the provisions of the act and to promulgate rules.
- 140 Corporation is authorized to appeal the disapproval of a document by the director to a court.
- 142 Forms issued by the director required to be used.
- 143 Provides shareholders the right to raise shareholder approval requirements for any shareholder action as long as the minimum prescribed requirements are met.
- 144 Waiver of notice for directors' meetings specifically provided for.
- 146 Liability for debts and damages for all persons who assume to act as a corporation without authority established.
- 147 Application of the act is to all corporations.
- 148 Provisions of act apply to foreign and interstate commerce to the extent not inconsistent with federal laws, treaties of the constitution.

Similar provisions in Model Act and existing Hawaii law:

<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Provision</u>
-2	417E-1	Relevant definitions related to take-over bids included.
-3	416-1	Corporations allowed to organize for any lawful purpose.
-4	416-26	General powers of a corporation.
-5	416-35	Indemnification of corporate officers, directors, employees and other agents for expenses incurred in the defense of suits brought against them because of their relationship with the corporation.
-6	416-28	Allows corporation to repurchase its shares.
-8	416-11, 416-12	Guidelines for corporate names. Model Act states specifically that a corporate name may not be misleading, as is the practice in Hawaii.
-9	416-13	Corporate names may be reserved.
-14	416-131	Service of process on a corporation.
-15	416-58, 416-59	Issuance of shares in one or more classes; convertible shares.
-16	416-58	Division and issuance of special and preferred classes of stock in series and fixing of the rights of the series of stock.
-17	416-92	Liability of subscribers of

		stock and calls for payment of subscription.
-18	416-57, 416-59, 416-28, 416-56	Consideration for shares issued by the corporation; reference to specific consideration and rights deleted.
-19	416-56	Consideration for stock.
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Provision</u>
-22	416-57	Permits organizational expenses from consideration for shares.
-23	416-54, 416-52	Execution of stock certificates; disclosures on stock certificates.
-25	416-92	Shareholder has no obligation to corporation or its creditors beyond the full consideration for the shares owned; transferees who take stock in good faith are not liable for unpaid portions.
-26	416-24	Corporations allowed to restrict, by its articles, shareholders' preemptive rights.
-27	416-79	Adoption, amendment, and repeal of by-laws; contents of by-laws.
-28	416-72	Requirements for shareholder meetings.
-31	416-51	Corporation required to maintain list of shareholders and interests.
-33	416-71, 416-74, 416-76	Shareholders may vote in person or by proxy; existing cumulative voting procedures are adopted; voting rights of fiduciary and agents.
-34	416-75	Voting trusts permitted.
-35	416-91.5, 416-4	Functions, qualifications and duties of directors and the board of directors; one director must be a resident of Hawaii.
-36	416-4, 416-11.5	Required number of directors conformed to current law; initial number of directors fixed by the articles.
-42	416-80	Executive committees of the board may be created.
-44	416-82	Action by directors without a meeting permitted with unanimous written consent.
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Provision</u>
-45	416-91	Distribution of assets may be made to shareholders; reference to dividends deleted.
-47	416-26	Permit loans to officers and directors.
-50	416-18	Officer requirements.

-52	416-51, 416-34	Hawaii law incorporated into Model Act.
-53	416-11	One or more persons may be incorporators; Model Act provides that a corporation may be an incorporator.
-54	416-11	Contents of articles in Model Act substantially similar to current law.
-56	416-16	Effect of filing of articles.
-59	416-23	Amendments to articles of corporations incorporated prior to July 1, 1986, shall be by a vote of two-thirds of the shares, unless, the corporation elects to lower its approval requirement to a majority.
-64	416-23	Resolution required to submit amended articles to the department.
-71 -72	417-2, 417-3	Allows domestic corporations to merge or consolidate; approval of the plan of merger or consolidation is through the board.
-73	417-4	For corporations existing prior to July 1, 1986, the shareholder approval requirement for mergers and consolidations remains at three-fourths of the outstanding shares, unless the requirement is lowered.
-74	417-6	Articles of merger, consolidation or exchange, similar to the current certificate of approval, must be filed.
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Provision</u>
-75	417-42	Merger of a subsidiary corporation into the parent owning at least 90 percent of the stock, need only be approved by the parent's board.
-76	417-8, 417-13	Legal effects of merger, consolidation or exchange.
-81	417-21	Dissenter's demand for fair value may be withdrawn only with the consent of the corporation.
-81	417-25	Appraisers may be appointed by the court to value dissenters' shares in lawsuits.
-83	416-78 416-121	Voluntary dissolution of corporation by shareholders requires unanimous written consent.
-85	416-121	Statement of intent to dissolve required to be filed after corporate authorization.
-86	416-121	Corporation ceases regular business upon the filing of its statement of intent.
-94	416-122	Involuntary dissolution is authorized.

-95	416-122	Procedures for involuntary dissolution.
-96	416-84	Provisions for court appointment of a provisional director to break deadlocked boards.
-97	416-23	Power of the courts to dissolve and liquidate the assets of a corporation under certain circumstances.
-98	416-128(b)	Judicial procedure for liquidation by court of a corporation.
-99	416-128(c)	Qualifications of receivers in dissolution.
-100	416-128(d)	Procedure for the filing of claims by creditors in liquidation.
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Provision</u>
-101	416-128(e)	Authority to discontinue liquidation proceedings.
-102	416-128(f)	Entry and filing of a decree of dissolution.
-106	418-1, 418-6	Certificate of authority to transact business in the state required; certain activities not considered to be transacting business for purposes of certificate requirement.
-107	418-7	Powers of a registered foreign corporation similar to those of domestic corporation.
-108	418-4	Foreign corporations prohibited from using a name similar to a corporation already doing business in the state.
-110	416-1	General contents of application of a foreign corporation to do business in the state.
-111	418-1	Application to be filed with the director.
-113	418-3	Foreign corporations required to maintain a registered agent and office in the state.
-114	418-3	Allows foreign corporations to change its registered agent upon notice to the director, and for the resignation of the agent.
-115	416-131	Service of process same as on domestic corporation.
-119	418-14	Withdrawal of authority to do business of foreign corporation.
-120	418-14	Withdrawal effective upon issuance of the certificate of withdrawal.
-126	416-95	Filing dates for annual reports of both domestic and foreign corporation is retained.

<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Provision</u>
-128	416-97	Fee schedules basically similar to existing law.
-131	418-9	Annual fee schedule for foreign corporation retained.
-135	416-95, 418-10	Penalties to be imposed upon domestic and foreign corporations for failure to file annual reports are retained; current penalties applicable solely to foreign corporations are deleted.
-141	416-5	All certificates and documents certified by the director shall <u>prima facie</u> evidence of the facts stated therein.
-144	416-77	Waiver of notice for shareholders' meetings retained.
-145	416-7	Authorization of shareholder action without a meeting retained.
-150 to -161	417E-2 to 417E-9, 417E-11 to 417E-14	Provisions for regulation and administration of take-over bids incorporated from Chapter 417E

Changes to existing Hawaii law:

<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Change</u>
-3	416-1	Exception in existing law for the incorporation of professional corporations not included in purpose section.
-9	416-13	Model Act permits reservations of corporate names for 120 days as opposed to 60 days under current law.
-17	416-55	Procedures for public auction of shares to pay for subscription agreement not contained in Model Act.
-19	416-56	Standard of care that board of directors must meet in fixing consideration for shares.

<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Change</u>
-23	416-52	Model Act requires full statement, as opposed to summary under current law, of rights, preferences, and limitations of each class and series of stock on the stock certificates.
-23	416-53	Stock certificate may not be issued until fully paid for.
-27	416-79, 416-80	Model Act does not provide for power of incorporators to adopt initial bylaws; specific items for bylaw inclusion of §41680 not in Model Act.

-28	416-72, 416-73	Model Act does not specify a date for shareholders' meetings; shareholder is authorized to apply to the circuit court for an order compelling a meeting if none is held in 13 months under the Model Act; under current law, the shareholder may call an annual meeting if the corporation does not do so after demand is made.
-34	416-75	Voting agreements treated separately from voting trusts.
-37	416-80	Specifies that classified boards must be in two or three classes and must have a minimum total of nine directors.
-38	416-74	Procedure established for the filing of vacancies on the board; current law allows the corporation to set its own procedure.
-39	416-80	Standards established for renewal of directors; current law allows a corporation to set its own standards.
-42	416-80	Imposes specific limitations on the powers of executive committees of the board.
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Change</u>
-45	416-91	Determination of whether distribution to shareholders can be made revised extensively.
-48	416-91	Current standard of strict liability for deviation from statutory requirements in the payment of dividends is amended to standards contained in Model Act.
-59	416-23	Amendments to articles must be initiated by the board; voting may take place at an annual or special meeting; notice to shareholders; amendments may be made to articles of corporations incorporated after July 1, 1986 by the approval of a majority.
-60	416-23	Classes of stock will be entitled to vote on a proposed amendment, whether or not the effect on the class is adverse.
-61	416-23	The verified certificate will be replaced by a required filing of an article of amendment.
-71 -72	417-3	Model Act eliminates prohibition on distribution of assets to shareholders as part of a merger or consolidation in certain situations.
-73	417-4	Shareholders limited to accepting or rejecting plan of merger or consolidation; current law authorizes approval subject to modification or approval with modifications to be made; for corporations

		incorporated after July 1, 1986, the shareholder approval requirement is a majority.
-76	417-12	No Model Act provision to deal with surplus of constituent corporation after merger or consolidation.
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Change</u>
-77	417-16, 417-17	Model Act requires vote of three-fourths of shares of domestic corporation entitled to vote to approve a merger with a foreign corporation; current law requires three-fourths of all issued and outstanding shares to approve; Model Act does not have special treatment for fiduciary companies, utilities and financial institutions.
-78	416-33	Model Act differentiates between sale or disposition of assets in the regular course of business and not in the regular course of business.
-79	416-33	Minimum notice must be given to shareholders prior to sale; shareholder approval requirement for such sales is a majority for corporations incorporated after July 1, 1986 in contrast to the present three-fourths requirement; miscellaneous provisions.
-80	417-19	Shareholders may, in addition to mergers, dissent to consolidations, share exchanges, and sales of assets not made in the regular course of business under the Model Act; shareholders may not dissent as to less than all shares held.
-81	417-19, 417-20	Dissenting shareholders required to file written objections prior to the proposed action and a separate demand for the shares' fair value (contrasted with fair market value in existing law) after the approval of the action; existing law only requires one written demand; depreciation and appreciation resulting from anticipated action is not considered in fair value; time restrictions for notification by the dissenting shareholder are amended.
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Change</u>
-81	417-22	Model Act requires the surviving corporation to offer to purchase the dissenting shares; current law requires the constituent corporation to satisfy dissenter; time limits are imposed on the corporation to purchase dissenting shares after agreement.
-81	417-23	In cases where the corporation and dissenting shareholder cannot agree on the value of shares, burden of bringing action in court shifted from shareholder to corporation.

-81	417-24	All dissenters are to be made parties to lawsuit to fix value without need for joinder and intervention.
-81	417-25	Court has the power to fix interest amount owed for dissenting shares.
-84	416-121	For corporations incorporated after July 1, 1986, a majority vote of the share holders is required to approve board action to dissolve; present law requires a three-fourths vote.
-87	416-121, 416-122	Corporation, instead of trustee under current law, is responsible for the winding up of the corporation; Model Act allows the corporation to petition the court to liquidate.
-92, -93	416-125	Articles of dissolution upon completion of the dissolution process must be filed within five years; present law provides one year for winding up.
-94	416-122	Grounds for involuntary dissolution amended.
-110	418-1	Application of foreign corporation
<u>Model Act Section</u>	<u>Hawaii Law Section</u>	<u>Change</u>
-110	416-4, 418-7	No requirement of \$1,000 minimum capital and \$50 filing fee.
-112	418-7	Foreign corporations may transact business upon the issuance of the certificate of authority; under current law, business may be transacted upon completion of the filing requirements.
-116	418-5	Foreign corporations required to file amendments to its articles with the director; current law requires only that a certificate of amendment be filed.
-117	418-5	Procedures for notice requirements upon merger of foreign corporation amended generally.
-118	418-5	Requires foreign corporations to obtain amended certificate of authority in the event of name change; current law requires recordation of name changes.
-121	418-15	Grounds and procedure for revocation of a foreign corporation's certificate amended generally.
-124	418-10	Specifically notes the consequences of a foreign corporation doing business without a certificate of authority.
-125	416-95	Specifies the information required to be included in a corporation's annual report to be filed with the director; current law allows the director to prescribe the information required.
-129	92-24	Per page copy charges increased from \$.50 to \$.75.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 55, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 55, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Shito, Honda, Kim, Taniguchi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 13 on H.B. No. 314

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to issue taxable revenue bonds to assist lessees in financing the acquisition of the fee title to leasehold properties converted under the Land Reform Act. This bill also amends the Land Reform Act to address concerns of the February 1982 Legislative Auditor's Management Audit of the land reform program.

Approximately 5,500 leasehold lots have been converted to fee simple ownership under the Act, with an additional 7,100 lots in the conversion process. HHA estimates that approximately \$225 million would be needed to finance the lots undergoing conversion. While the transfer of ownership of these properties cannot take place under judicial condemnation proceedings (as distinguished from transfer of ownership which still can be effected through voluntary negotiations) until the constitutionality of the Land Reform Law is decided by the courts, it is estimated that \$55 million will be needed to finance the lots already converted, as many are under short term agreements of sale with landowners.

This bill establishes a "Fee Title Acquisition Loan Program" which would allow HHA to issue taxable securities, the proceeds of which would be used to purchase newly originated fee title acquisition mortgage loans from private lending institutions.

For a variety of reasons, relatively few loans have been made by local lenders to lessees to finance the purchase of the leased fee interest. The primary reason is the inability of the lenders to "sell" these loans in the secondary mortgage market. Although the Federal National Mortgage Association (FNMA), a secondary mortgage purchaser, has recently initiated a direct purchase program, it is too soon to predict whether this FNMA program will be acceptable to lenders, or whether FNMA's program will be of long-term duration. The program established by this bill is viewed as a "stand-by" to be initiated if local lenders and FNMA do not provide the funds needed to make loans to lessees. This bill's loan program is not intended to compete with existing lending institutions, nor is it intended to provide below-market interest loans to lessees. Your Committee has been assured that HHA and the lenders must work cooperatively, since this program cannot be implemented without the assent of the lenders to serve as the primary market originating the loans. HHA will act as the conduit between the primary lenders and the national capital markets. Mortgage lenders and HHA, as a team, represent the interface between the homeowners who are buying their fee interest and the bond investors who are supplying the necessary funds.

Your Committee wishes to emphasize that the fee title acquisition loan program will not have any impact on the State's financing abilities nor cost the State any expense. All expenses incurred will be paid from program revenues or bond proceeds. In addition, since HHA would be issuing taxable, rather than tax exempt securities, there would be little effect on the State's ability to raise money from the sale of general obligation or revenue bonds because the investors in the two markets form two distinct segments of the bond market.

This bill also amends the Land Reform Act to address concerns in the February 1982 Legislative Auditor's Management Audit of the Land reform program. Specifically, the bill (1) allows the Authority to collect deposits from lessees upon application to purchase fee title to their residential property; (2) ensures that the Authority is reimbursed for administrative costs by lessees who withdraw during the conversion process; (3) eliminates the statutory limit on the lessee's deposit; (4) clarifies the Authority's liability for deposits collected; and (5) provides that interest earned on moneys deposited by lessees accrue to the lessees.

Your Committee upon further consideration has made the following amendments to H.B. 314, S.D. 2:

- 1) A new section has been added to authorize HHA to issue up to \$50 million in taxable revenue bonds.

2) Technical changes were made to the bill which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of H.B. 314, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 314, S.D. 2, C.D. 1.

Senators Yamasaki, Solomon, Young and Ajifu
Managers on the part of the Senate

Representatives Hirono, Kiyabu, Chun, Shito, Tam and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 14 on H.B. No. 1232

The purpose of this bill is to clarify the existing statute which allows the Hawaii Housing Authority (HHA) to submit to the appropriate county legislative body preliminary plans and specifications, instead of final plans, in order for HHA to obtain exemptions from zoning and construction standards.

Currently, under Section 359-4.1, Hawaii Revised Statutes, HHA is allowed to seek exemptions from certain zoning and construction standards for housing projects developed by, or with the assistance of, HHA. The statutory language presently is unclear as to whether HHA must submit, to the appropriate county legislative body, not only preliminary, but also final plans and specifications to obtain exemptions for a development project. Submitting final plans to the county legislative body necessitates the expenditure of a considerable amount of money, with no assurance to HHA or the developer that the project will be approved by the body.

This bill is not intended to circumvent the requirement that after approval of a project by the county legislative body based on submittal of preliminary plans, final plans and specifications must be submitted to the appropriate county agencies for review and approval, consistent with the legislative body's approval of exemptions from certain zoning and construction standards. With regard to the county legislative body, preliminary plans would be sufficient for the county council members to make a determination on whether or not the proposed project should be exempted from certain zoning and construction standards, which determination is the purview of the county legislative body under Section 359G-4.1.

Your Committee upon further consideration amended the bill to ensure that if changes are made to the preliminary plans, involving the previously approved exemptions, then subsequent review and approval by the county legislative body would be required.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1232, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1232, H.D. 1, S.D. 1, C.D. 1.

Senators Young, Yamasaki and Ajifu
Managers on the part of the Senate

Representatives Hirono, Apo, Leong, Morgado, Tam and Jones
Managers on the part of the House

Conf. Com. Rep. No. 15 on H.B. No. 1620

The purpose of this bill is to amend Section 519-3, Hawaii Revised Statutes, to clarify that all strata of subleases of cooperative housing corporations be included under the statutory procedures for renegotiation of lease rents. The bill also amends the definition of key terms used in determining the renegotiated rent payable by the cooperative housing corporation.

Section 519-3 was enacted by Act 220, Regular Session Laws of Hawaii, 1982. Your Committee believes that the original intent of the legislature was that cooperative housing corporations which are sublessees, assignees, or sub-sublessees, not only lessees, are entitled to protection under this section.

Your Committee upon further consideration amended the bill to retain the current statutory language regarding the definition of terms for determining the lease rent payable by the cooperative housing corporation. Your Committee feels that the issues concerning "owner's basis", "lessor's basis" and other terms involved in the renegotiation of lease rents by cooperative housing corporations are complex and

should be studied in greater detail before amending. Your Committee has therefore deleted the proposed amendment to redefine the terms.

Your Committee made technical, nonsubstantive changes to this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1620, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1620, H.D. 1, S.D. 1, C.D. 1.

Senators Young, Yamasaki and Ajifu
Managers on the part of the Senate

Representatives Hirono, Leong, Shito, Tam and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 16 on H.B. No. 800

The purpose of this bill is to provide that upon entry of a final divorce decree, in which the division of property has been deferred, the property rights of the parties will be governed by the provisions of the Uniform Probate Code, chapter 560 of the Hawaii Revised Statutes, as well as other relevant provisions of law.

The measure also proposes to amend the time limit to resolve the deferred issue of property division from one year to six months, after which time the divorced spouse loses entitlement to dower, curtesy, or any share in the spouse's property.

Your Committee upon further consideration has amended the bill by declining to decrease the time period to determine the reserved issue of property division from one year to six months because it finds that six months is too short a period for the Family Court to resolve property issues.

Your Committee also has made technical, nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 800, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 800, S.D. 1, C.D. 1.

Senators Cobb, Machida and George
Managers on the part of the Senate

Representatives Stanley, Kim, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 17 on S.B. No. 1254

The purpose of this bill is to amend Section 305E-1, Hawaii Revised Statutes, by expanding the scope of the University's college-credit equivalency program to include those students who have successfully completed a military training program. This bill also allows college credits to be awarded to students for work or other experiences at the discretion of the University, provided that students meet the qualifications in Section 305E-1.

The bill also amends Section 304-14.6, Hawaii Revised Statutes, by repealing the sunset provision for granting tuition waivers to qualified Hawaii National Guard and Army reserve members and Section 304-4, Hawaii Revised Statutes, by repealing nonresident tuition differential waivers by reciprocity.

Your Committee feels that repeal of the sunset provision for granting tuition waivers to Hawaii National Guard and Army reserve members may be premature in light of Act 192, Section 3 of the 1980 Session Laws of Hawaii, which provides that the Adjutant General shall submit a report to the Legislature on the impact of tuition waivers on recruitment by January 16, 1984.

Your Committee finds that any action on the matter should await the submission of the Adjutant General's report as required by law.

Upon further consideration, your Committee has made the following amendments to S.B. No. 1254, H.D. 1:

- (1) Section 2 of the bill has been deleted.

(2) Sections 3, 4, and 5 of the bill have been renumbered to Sections 2, 3, and 4 respectively.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1254, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1254, H.D. 1, C.D. 1.

Senators Holt, Mizuguchi, Solomon and Soares
Managers on the part of the Senate

Representatives Hagino, Apo, Bunda, Kiyabu, Kiyabu-Saballa, Menor, Okamura
Wong and Dang
Managers on the part of the House

Representative Wong did not sign the report.

Conf. Com. Rep. No. 18 on S.B. No. 569

The purpose of this bill is to require that forensic examiners arrive at their conclusions in sanity examinations independently from the other examiners, unless there is a showing of clear need for communication between or among the examiners. Such communication shall be noted in the examiners' reports. This bill will also permit examiners access to police and juvenile records, including those expunged. This bill also provides that the court will make all pertinent records available to the examiners.

Your Committee finds that the accuracy and objectivity of sanity examinations will be enhanced if examiners develop their findings without collaboration and if they are provided with a wider range of information. It also finds that the confidentiality of the records will be ensured if the court is the agency which releases the information.

Your Committee upon further consideration amended the bill to clarify that the court will be responsible for obtaining, holding, and making records available for inspection by the examiners. Your Committee finds that placing the responsibility on the court for obtaining and keeping the records will afford additional protection to the privacy of the person involved. The Administrative Director of the Courts confirmed that the court can perform this responsibility with existing resources.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 569, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 569, S.D. 1, H.D. 1, C.D. 1.

Senators Chang, Machida and George
Managers on the part of the Senate

Representatives Stanley, Baker, Hayes, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 19 on S.B. No. 133

The purpose of this bill is to better conserve native forms of life by correcting inconsistencies in the definitions of aquatic life and wildlife and by providing additional regulatory powers for the Department of Land and Natural Resources.

Chapter 195-D, Hawaii Revised Statutes, relating to Conservation of Wildlife and Plants, does not clearly state that aquatic life is provided for by the chapter. This bill will remove any doubt that Chapter 195-D applies to aquatic life.

The chapter presently establishes penalties for persons who violate its provisions. The bill amends those penalties to achieve consistency with penalties for other violations of conservation laws.

The bill provides the department the authority to revoke licenses issued by the department to persons performing activities for scientific purposes or to enhance the propagation or survival of affected species.

Your Committee has amended this bill by making technical changes which have no substantive effect.

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

No. 133, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 133, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Okamura, Kiyabu-Saballa, Matsuura, Souki and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 20 on H.B. No. 809

The purpose of this bill is to establish an inter-agency coordinating committee for the development and implementation of a statewide occupational information system (OIS).

Currently there are many state agencies which provide some type of occupational and career information on an individual basis. The federal vocational law mandates the establishment of a statewide occupational information system. This bill will provide for the development and delivery of occupational and career information on a statewide basis and provide for the coordination of this information by the Hawaii State Occupational Information Coordinating Committee.

Your Committee after discussion agreed to delete the revolving fund. Accordingly, amendments have been made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 809, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 809, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Tungpalan, Kawakami, Lardizabal, Taniguchi, Wong, Yoshimura and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 21 on S.B. No. 1279

The purpose of this bill is to merge the Environmental Quality Commission and the Environmental Council and realign their functions with the Office of Environmental Quality Control. This bill will consolidate the fragmented functions of these groups and will streamline the evaluation and review of environmental impact statements.

This bill will require the director of the Office of Environmental Quality Control to be an ex-officio voting member of the Environmental Council. The director will be exempt from the representation requirements and staggered term of membership restrictions placed on other members of the council. This bill also clarifies that the director need not be the chairperson of the council.

Your Committee upon further consideration has amended the bill to clarify that the Environmental Council chairperson will call for meetings of the Council, either personally or through the director of the Office of Environmental Quality Control. The bill has been further amended to make technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1279, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1279, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Okamura, Say, Kawakami, Kiyabu, Kiyabu-Saballa, Nakata, Dang and Crozier
Managers on the part of the House

Conf. Com. Rep. No. 22 on H.B. No. 844

The purpose of this bill is to enable the Stadium Authority to dispose of unclaimed lost and found property after 45 days.

Presently, lost and found property must be stored for seven years after which

time it is considered abandoned property. Your Committee finds that claims for lost items are usually made by owners within a couple of days. Seven years accumulation of lost articles takes too much needed space unnecessarily.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 844, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 844, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Albano, Grauly, Kim, Lardizabal, Levin, Nakasato, Medeiros
and Yoshimura
Managers on the part of the House

Conf. Com. Rep. No. 23 on H.B. No. 1567

The purpose of this bill is to continue the investment yield rate of seven per cent for the purpose of actuarial valuations under the public employees' retirement law.

Under the present law, the investment yield rate was seven per cent for the year ending June 30, 1982, but will become four and one-half per cent for subsequent years. Your Committee finds that the seven per cent interest rate under this bill reflects a realistic assumption of the net earnings of the System's investments.

Your Committee has amended this bill to extend the seven per cent interest rate until June 30, 1984, at which time the consulting actuary together with the Board of Trustees, will review, analyze, and evaluate the experience of the previous five years. In turn, the board will present any new assumptions and recommendations to the Legislature concerning the investment yield rate.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1567, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1567, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Albano, Kiyabu, Hayes, Honda, Kim, Lardizabal, Wong,
Yoshimura and Anderson
Managers on the part of the Senate

Conf. Com. Rep. No. 24 on H.B. No. 1557

The purpose of this bill is to allow the director of the Department of Health to place defendants charged with misdemeanors or felonies, not involving violence or attempted violence, in the least restrictive appropriate environment in light of the defendant's treatment needs and the need to prevent harm to the person confined and to others. The bill also deletes references to danger to property in accordance with the decision in Suzuki v. Yuen, 617 F 2d. 173 (1980).

To insure clarity, the amendment proposed by this bill has been placed in paragraph (a) of subsection 1 of Section 704-411 of the Hawaii Revised Statutes. Various stylistic and technical, nonsubstantive amendments also have been made by the Committee.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1557, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1557, S.D. 1, C.D. 1.

Senators Chang, Machida and George
Managers on the part of the Senate

Representatives Stanley, Baker, Hayes, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 25 on H.B. No. 1417

The purpose of this bill is to provide children prompt and ample protection from abuse and other harm, to provide an opportunity for timely reconciliation of children with their families where practicable, and to provide timely and permanent planning for children.

Under this bill, procedures and actions required for family protection services by the Family Court and other appropriate agencies are organized under one chapter of the Hawaii Revised Statutes, specific relevant terms of the implementation of family protective services are provided, and a system of service plans that clearly set forth actions required on the part of the family are established.

However, your Committee feels that this Act should not be construed in any manner that will impose upon or abridge in any way the beliefs and practices of traditionally established and recognized religious organizations.

Your Committee upon further consideration has made the following amendments to H.B. No. 1417, H.D. 1, S.D. 1:

- (1) On page 17, line 13, of the bill, your Committee has deleted the reference to "commercial purposes". Your Committee intends that all situations for filming and depiction of sexual contact or conduct of a child shall be covered by this Act and not limited to commercial situations.
- (2) On page 18, line 12, of the bill, your Committee has added "medical care" in the provision pertaining to harm to a child.

To insure clarity and conformity with the Ramseyer format, various stylistic and technical, nonsubstantive amendments have been made by your Committee.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1417, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1417, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Stanley, Hirono, Lardizabal, Tom and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 26 on H.B. No. 1342

The purpose of this bill is to require that persons released on conditional release pursuant to section 704-411 of the Hawaii Revised Statutes shall continue to receive psychological or psychiatric treatment.

The measure provides that if the individual fails to continue treatment or care, or there is evidence that hospitalization is appropriate, the individual may be hospitalized for up to 72 hours without a hearing. The 72-hour limitation may be exceeded if a hearing is held and the court determines that the conditions of release have not been fulfilled or that the safety of others or that person is endangered.

The measure also provides that the court may at any time, after granting conditional release until final discharge, determine that the person has not fulfilled the conditions of release and modify or revoke the conditions or order the person committed to the custody of the director of health. Presently, revocation or modification of conditional release cannot occur later than five years from the date of the granting of conditional release.

A technical, nonsubstantive correction has been made by your Committee to conform to the Ramseyer format.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1342, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1342, H.D. 1, S.D. 1, C.D. 1.

Senators Chang, Machida and George
Managers on the part of the Senate

Representatives Stanley, Baker, Hayes, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 27 on H.B. No. 1119

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

Your Committee after discussion has amended the bill by deleting the appropriations for the judgments in Ethel S. Littleton; Civil No. 50265, First Circuit (\$72,346.37) and Shirley Matsuura; Supreme Court No. 8207, (\$42,426.28.)

The Attorney General has informed the Committee that in the opinion of the Department of the Attorney General these are not final judgments but rather involve ongoing litigation.

As amended, the total amount appropriated by the bill is \$174,919.54.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1119, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1119, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Stanley, Hirono, Kawakami, Tungpalan, Yoshimura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 28 on H.B. No. 992

The purpose of this bill is to transfer the authority to determine the penalties and fees for unlicensed and stray dogs as well as the impoundment fees from the State to the counties.

This bill also clarifies the definition of "officer" and further provides that a parent or guardian shall be responsible for compliance with the law pertaining to the licensing and regulation of dogs when the owner is a minor. This bill will also make it a misdemeanor consistent with the penalty for cruelty to animals as provided for under Hawaii Revised Statutes 711-1109 for failing to destroy or provide suitable medical treatment for diseased dogs.

This bill also allows the counties to set the fee for issuing dog tags.

Your Committee after discussion has agreed that the bill is important in that it transfers the entire responsibility for dog control to the counties.

Your Committee has amended the bill by underlining on page 6, "animal control officer" to conform to the Ramseyer format.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 992, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 992, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Hagino and Henderson
Managers on the part of the Senate

Representatives Stanley, Grauly, Honda, Levin, Tungpalan and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 29 on H.B. No. 535

The purpose of this bill is to extend the time allowed for the preparation and transmission of the record of an administrative hearing when the agency decision is being appealed from 15 days to 20 days.

Presently state and county agencies have 15 days to gather and index all correspondence, documents, and exhibits; transcribe the recording of the hearing; and file the record in court. This period is not always sufficient when the record is voluminous.

Your Committee upon further consideration has amended the effective date of the Act from the upon approval date to January 1, 1984 to allow the courts time to conform the Rules of Court to the requirements of this Act.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 535, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 535, S.D. 1, C.D. 1.

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

Representatives Stanley, Hayes, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 30 on H.B. No. 467

The purpose of this bill is to provide that a child victim or witness shall have the right to have an attorney, parent, or other adult present in all Family Court proceedings, and that the Court shall inform the parent, guardian, or legal custodian of their right to remain silent. The bill also provides that the child shall be informed of the right to counsel and the right to remain silent.

Your Committee upon further consideration has amended the bill by requiring that a child victim or witness may have an attorney present while testifying or otherwise attending a hearing. Your Committee prefers the permissive requirement to clarify the intent that the court is not required to provide an attorney or pay for the services of any attorney who attends the hearing as provided by this measure.

Your Committee has also made technical, nonsubstantive corrections to this bill to conform to the Ramseyer format.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 467, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 467, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Stanley, Hirono, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 31 on H.B. No. 1562

The purpose of this bill is to provide that a defendant who is unfit to proceed with trial, and who is charged with one or more misdemeanors, or with one or more felonies not involving violence or attempted violence against the person of another, shall be confined in the least restrictive environment appropriate and shall not be confined in a hospital unless such confinement is necessary to effectuate his treatment.

The bill further provides that within 14 days of the order of commitment, a determination shall be made whether the defendant will be able, through treatment or medication, to proceed with trial. If the defendant is charged with one or more misdemeanors, or with one or more felonies not involving violence or attempted violence against the person of another, he shall be released or civilly committed if he is not able to proceed after one year. If a defendant is charged with a felony involving violence or attempted violence against the person of another, he may be released, continue under his commitment, or be civilly committed if he is not able to proceed after three years.

Your Committee upon further consideration has amended the bill for the purpose of clarity by requiring that the least restrictive environment appropriate shall be in light of the defendant's treatment needs and the need to prevent harm to the person confined and others.

On page 2, line 10, of the bill, your Committee has inserted the phrase "by the court" after the word "held" to clarify that it shall be the court which holds the hearing to determine a defendant's fitness to proceed.

On page 3, lines 1 and 2, of the bill, your Committee has substituted the phrase "director of health" with "court which had committed the defendant under the provisions of paragraph 1" for clarity and consistency. Your Committee feels that a defendant's release shall be after a hearing by the court rather than by the director of health.

Your Committee also made various technical, nonsubstantive amendments to the measure.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1562, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1562, H.D. 1, S.D. 1, C.D. 1.

Senators Chang, Machida and George
Managers on the part of the Senate

Representatives Stanley, Baker, Hayes, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 32 on S.B. No. 180

The purpose of this bill is to amend Chapter 457, Hawaii Revised Statutes, to delete the requirements that members of the Board of Nursing be United States citizens and file with the Lieutenant Governor the constitutional oath of office before the commencement of the members' terms of office, that the Board of Nursing submit an annual report to the Governor, and that registered nurse board members have five years of post graduate experience in administering or teaching nurse training courses and substituting therefor a requirement that such members have five years of experience in the practice of nursing as a registered nurse. The bill also makes technical changes to Chapter 457 which have no substantive effect.

Your Committee upon further consideration has amended the bill by restoring the word "or" where that word was deleted by the House Draft in Sections 9 and 11 of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 180, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 180, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, B. Kobayashi, Yamasaki and Soares
Managers on the part of the Senate

Representatives Shito, Andrews, Hayes, Kim and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 33 on S.B. No. 181

The purpose of this bill is to update and clarify the Nursing Home Administrators Act, delete references to gender and indefinite modifiers used within the context of the Act, remove an outdated section, and delete the requirement that nursing home administrators shall be individuals who are of "good character and are otherwise suitable" as a condition for being licensed.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 181, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 181, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Chang, Uwaine and Soares
Managers on the part of the Senate

Representatives Shito, Andrews, Hayes, Kim and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 34 on S.B. No. 247

The purpose of this bill is to allow mortgage servicing agents to substitute an irrevocable letter of credit in lieu of the surety or cash bond required to be filed with the Director of Commerce and Consumer Affairs under Chapter 454D, Hawaii Revised Statutes.

Current statutory provisions require a mortgage servicing agent, as a condition of doing business, to purchase a \$25,000 cash or surety bond, which increases to \$50,000 on July 1, 1983 conditioned on the full and faithful compliance by the agent

of all its duties and obligations as a mortgage servicing agent. This bill allows an irrevocable letter of credit to be substituted for the bond and gives a servicing agent an alternative to the posting of a surety or cash bond.

Your Committee upon further consideration has amended S.B. No. 247, S.D. 1, H.D. 1, to delete the phrase "... , or other financial institution authorized to do business in the State,..." which appeared on page 3, lines 6 and 7. The purpose of the amendment is to allow only letters of credit from banks and savings and loan associations to be used in lieu of a bond.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 247, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 247, S.D. 1, H.D. 1, C.D.

Senators Cobb, Chang, Uwaine and Henderson
Managers on the part of the Senate

Representatives Shito, Kim, Matsuura, Taniguchi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 35 on S.B. No. 555

The purpose of this bill is to: (1) increase the service fee for an original certificate of compliance from \$1 to \$5, and additional copies from 25 cents to \$1; (2) establish a fee of \$15 for service of process upon corporations; (3) increase the fee for filing a certificate of registration of a print, label, or trademark from \$10 to \$25; (4) increase fees for legal processes and notices from \$5 to \$10; and (5) amend Section 26-9(k), Hawaii Revised Statutes, to provide the Director of Commerce and Consumer Affairs with the authority to increase or decrease these fees by rules in accordance with Chapter 91, Hawaii Revised Statutes.

Your Committee finds that many of these fees have not been changed for decades and no longer cover the costs of services. This bill would rectify this situation by increasing the fees and by giving the Director of Commerce and Consumer Affairs the authority to increase or decrease fees in accordance with Chapter 91, Hawaii Revised Statutes. With this authority, the Department will be able to maintain a reasonable relationship between the fees and the costs of services without seeking future statutory amendments.

Your Committee has amended the bill to require that the new fees and the portion thereof representing the increase over the old fees be placed in the Business Registration Division's special fund established by Act 244, SLH 1982, and the balance deposited to the general fund until June 30, 1984, after which date the entire portion of the fee shall be so deposited. Your Committee finds that the revenues which will be generated by the additional service fees proposed in this bill should first be utilized by the agency which provides the services.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 555, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 555, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Cobb and Ajifu
Managers on the part of the Senate

Representatives Shito, Hirono, Kim, Levin, Matsuura and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 36 on S.B. No. 711

The purpose of this bill is to bring the law on psychology into conformity with recommendations made by the Attorney General and the Legislative Auditor.

This bill:

- (1) Deletes references to gender and indefinite modifiers;
- (2) Deletes the requirement that psychologists be of "good moral character" as a condition for being licensed and would instead require them to be

"professionally competent" with a "demonstrated knowledge in the practice of psychology";

- (3) Replaces the word "certification" and variations thereof with the word "licensing" and variations thereof to clarify that psychologists are "licensed";
- (4) Allows the board of certification for practicing psychologists to place a license, or put a licensee on conditional probation for certain violations; and
- (5) Repeals section 465-14.5 and adds the substance of it to section 465-15 for purposes of clarity.

Your Committee is aware of a projected interim study of the law on psychology by a representative committee drawn from the psychological community and expects that further refinement of this law may be recommended prior to the 1984 legislative session.

Your Committee has amended the bill by establishing requirements for persons using the title of industrial/organizational psychologists.

Your Committee has also made technical changes which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 711, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 711, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Chang, Uwayne and Soares
Managers on the part of the Senate

Representatives Shito, Hirono, Lardizabal, Matsuura and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 37 on S.B. No. 735

The purpose of this bill was to allow applicants for a certificate of Certified Public Accountant (CPA) to satisfy the graduate study requirement with three additional years of public accounting experience. It also proposes to delete the provision that equivalent experience as an auditor or examiner in industry or government may be substituted for professional public accounting experience.

Your Committee finds that the option of replacing the requirement of thirty semester hours of graduate study with a specified amount of public accounting experience, in addition to the two years of experience already required, will assist candidates who may be financially unable to commit themselves to a fifth year of study or who may experience difficulty obtaining the required courses.

Your Committee upon further consideration has made an amendment to S.B. No. 735, S.D. 1, H.D. 1, by allowing applicants for a certificate of Certified Public Accountant to satisfy the requirement of thirty semester hours of graduate study, in addition to the requirements for a baccalaureate degree, with an additional thirty months, rather than three years, of public accounting practice.

Your Committee has further amended the bill by making language changes to the proposed new subsection (j) of section 466-5 for the purpose of clarity and drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 735, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 735, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, B. Kobayashi, Uwayne and Henderson
Managers on the part of the Senate

Representatives Shito, Baker, Matsuura, Tom and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 38 on S.B. No. 631

The purpose of this bill is to amend the requirements and procedures for the involuntary commitment of persons to psychiatric facilities for hospitalization and treatment.

This bill removes danger to property as a ground for involuntary commitment and requires that the danger to the person or others be imminent.

This bill also requires that notice be given if the petitioner intends to adduce evidence to show that the subject is an incapacitated or protected person, under Article V of chapter 560, Hawaii Revised Statutes, and whether the appointment of a guardian will be sought. If guardianship is recommended, the identity of the proposed guardian would be disclosed in the notice, if known at the time the petition is filed.

This bill also allows the administrator of a psychiatric facility to discharge the patient without a court order if the order for commitment is expiring or because commitment is no longer necessary, and if no objections are filed. Presently, the Family Court must hold a hearing on the discharge of a patient even if no one objects. If objections are filed, this bill specifically authorizes the court to deny the discharge if the patient still meets the criteria for commitment.

Current statute provides that a person may be committed to a psychiatric facility for involuntary hospitalization if the court finds "beyond a reasonable doubt" that the person is:

- (A) Mentally ill or suffering from substance abuse;
- (B) Dangerous to himself, others, or property; and
- (C) In need of care and/or treatment and there is no suitable alternative available through existing facilities and programs which would be less restrictive.

This bill, as received by your Committee, reduced the standard of proof for all three criteria for commitment from "beyond a reasonable doubt" to "upon clear and convincing evidence."

Concern was expressed that individuals must hurt themselves or others before they can receive appropriate and necessary care because the present higher degree of proof is required in involuntary commitment proceedings. However, concern was also expressed that the civil liberties of individuals may be detrimentally affected by reducing the standards for involuntary commitment.

Your Committee, after balancing the needs and rights of individuals and of the community, finds that requiring "clear and convincing evidence" as to the issues of dangerousness and the need for care will provide a more realistic and practical standard of proof, adequate protection for subjects of the proceedings, and an opportunity for treatment that had been foreclosed to them.

However, your Committee also finds that evidence showing mental illness and substance abuse "beyond a reasonable doubt" can be generally provided to the court. Therefore, your Committee retained this present standard of proof for the first criteria.

Your Committee made technical nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 631, S.D.1, H.D.1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 631, S.D.1, H.D.1, C.D.1.

Senators Chang, Machida and George
Managers on the part of the Senate

Representatives Baker, Apo, Hirono, Leong, Stanley, Tom and Ikeda
Managers on the part of the House

Representative Apo did not sign the report.

Conf Com. Rep. No. 39 on H.B. No. 390

The purpose of this bill is to require that the notice of summons in a quiet title action shall be published in an English language newspaper of statewide circulation, whenever the action is filed in a circuit court other than the first circuit.

Presently, notice is only required to be published in newspapers circulated in the circuit in which the action has been instituted. In many quiet title actions, the property claimed is on the neighbor islands but most of the heirs to the lands reside

on Oahu. The effect of the proposed change is to afford fair and effective notification to a greater number of people who have an interest in the real property that is the subject of litigation.

The bill as referred to your Committee required that a person claiming land by adverse possession must show that he acted in good faith under claim of right or color of title.

Your Committee upon further consideration has amended this language by providing a definition of good faith and by deleting "under claim of right or color of title". The purpose of this amendment is to provide an objective standard for determining the adverse possessor's genuine belief that such person has a right to enter and take possession of the land.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 390, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 390, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Stanley, Honda, Lardizabal, Matsuura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 40 on H.B. No. 1266

The purpose of this bill is to enable the Family Court to issue a restraining order to preserve the status of marital property, without notice of hearing to the other party, after a complaint for a divorce has been filed in this state.

The bill will also allow the Family Court to appoint a master or masters to make preliminary findings and to report to the court.

Your Committee upon further consideration has amended the bill by adding that annulment and separation actions are covered by this provision. Your Committee also has changed the mandatory language "shall" to "may" to clarify that the court has discretion in granting such orders.

In order to ensure the other party's rights, your Committee further has required that where such restraining orders are issued against the other party, such party shall be served promptly with the order and shall be entitled to a prompt hearing to show cause why a restraining order should not be enforced.

Your Committee further has amended the bill by permitting the court to issue such restraining orders against a person or persons not a party to the action and by requiring that they be promptly served with the order and be entitled to a prompt hearing to show cause why a restraining order should not be enforced.

For purposes of clarity and consistency, your Committee has amended the bill by creating subsections.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1266, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1266, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Stanley, Taniguchi, Tom and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 41 on H.B. No. 663

The purpose of this bill is to grant victims a basic bill of rights to be provided by the police, prosecuting attorneys, courts, victim assistance programs, the state department of social services and housing, and paroling authority.

Your Committee upon further consideration has amended the bill by narrowing its scope to provide notice to crime victims of those post-conviction governmental actions which would place the criminal who harmed them back into the community. The bill requires that written notice be given to victims of offenses described in chapter 707,

offenses against the person, of the Hawaii Revised Statutes, including attempts to commit any of those offenses. This measure will also exempt state employees from liability for failure to comply with the notice requirement, but subjects them to disciplinary action.

Your Committee has further amended the bill by including a purpose section to the act to insure that it is the intent of the Legislature that victims of crimes are treated with fairness and respect and that all agencies in the criminal justice system fully cooperate with each other in assisting them by providing information and assistance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 663, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 663, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Stanley, Hirono, Kim, Levin, Morgado, Taniguchi, Yoshimura
and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 42 on H.B. No. 1102

The purpose of this bill is to authorize the Family Court to extend a domestic protective order to one year from the date of the initial order.

Your Committee upon further consideration has made an amendment to the bill by setting the maximum time period a domestic protective order can be in effect at 180 days from the date of the initial order.

Your Committee recognizes that domestic violence is a serious problem and that extension of the present time period of 90 days when necessary will prevent violence. However, your Committee believes that one year is too long and believes 180 days is a more reasonable time for a domestic protective order. Such order is by substance a temporary restraining order which may include temporary visitation arrangements which may limit contacts between parents and children. To extend these orders for a year may detrimentally affect the stability and harmony of the relationships within the family.

Your Committee also has made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1102, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1102, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Stanley, Honda, Matsuura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 43 on H.B. No. 901

The purpose of this bill is to correct deficiencies and discrepancies in the election laws to facilitate the efficient planning and execution of future elections by amendments to twenty-two separate sections of election law.

Your Committee upon further consideration has amended the bill by deleting the amendments which would have required candidates to obtain notarized affidavits from their political parties certifying that the candidate is a member of that party. Your Committee finds the requirements to be unduly burdensome, especially for neighbor island candidates who may not be able to easily secure an official party affidavit.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 901, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 901, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Stanley, Andrews, Taniguchi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 44 on S.B. No. 30

The purpose of this bill is to require every person collecting rent on behalf of an owner of real property located in the State to file with the department of taxation a copy of the first page of the rental collection agreement which shall include the name and address of the property owner, the address of the property being rented, and a statement in bold print, ten-point type size indicating that a copy of the first page of the agreement shall be filed with the department of taxation and that the owner must pay general excise taxes on the gross rent collected. In lieu of the first page of a rental collection agreement, a copy of Internal Revenue Service form 1099 may be filed.

Although section 237-13(10), Hawaii Revised Statutes, imposes a four per cent tax on gross rents received from rentals of real property, the State is losing large amounts of revenue as a result of out-of-state owners of real property failing to pay general excise taxes on rents collected. Enforcement is presently laborious because the department of taxation has difficulty identifying and locating property owners. During a two-month enforcement period in 1982, the department recovered \$200,000 in revenues, due only to the persistent efforts of its personnel who went through the tedious process of going apartment to apartment to find out who the owner was, then checking back through departmental and private records to determine if the owner had paid general excise taxes due, and then collecting such taxes.

Your Committee upon further consideration has amended the bill to require that the owner's social security number and, if available, the owner's general excise tax license number be included on the forms filed with the tax department. Your Committee also made technical amendments that have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 30, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 30, S.D. 2, H.D. 1, C.D. 1.

Senators Yamasaki, Cobb and Ajifu
Managers on the part of the Senate

Representatives Kawakami, Chun, Levin and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 45 on S.B. No. 800

The purpose of this bill was to allow claims against entities employing design professionals, to enable the Department of Commerce and Consumer Affairs to terminate the claims hearing upon the mutual consent of the parties, and to provide for retroactive application of chapter 627, Hawaii Revised Statutes.

Your Committee finds that there is a need to clarify present law so that claims may be filed against corporations and other entities employing a design professional as well as the design professional individually.

Your Committee further finds that the parties to any claims hearing should have the option to waive the claims hearing by mutual consent and to litigate any claims pursuant to section 672-8, Hawaii Revised Statutes. Allowing the Department of Commerce and Consumer Affairs to terminate the panel hearing upon the mutual consent of the parties when the hearing would not be beneficial to the parties or when the hearing is an improper forum for review would be in the best interests of the parties.

Because of questions raised as to whether or not the provisions of chapter 672 apply to claims which arose prior to the effective date of the chapter but on which no legal action had been initiated as of the effective date, this bill makes it clear that such claims are covered by chapter 672.

Your Committee upon further consideration has amended S.B. No. 800, S.D. 1, H.D. 1 to:

- (1) Add language to the termination of proceedings provision to clarify that the Department of Commerce and Consumer Affairs may terminate panel proceedings prior to the appointment of a chairman and the chairman can terminate

proceedings if one has been appointed;

- (2) Add the word "termination" to the title of section 672-4 and divide the section into subsections (a) and (b) with the termination language being placed in subsection (b);
- (3) Delete section 2 of the bill to correct a drafting oversight and accordingly renumber the subsequent sections;
- (4) Substitute the word "chairman" for "chairperson" wherever it appears in the bill.

Your Committee has further amended the bill to make technical nonsubstantive changes.

Your Committee is concerned about the feasibility of allowing other parties who are non-design professionals to participate in the design professional conciliation hearings and requests the Department of Commerce and Consumer Affairs to study this issue and submit the results of their study to the Legislature no later than twenty days prior to the convening of the 1984 legislative session.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 800, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 800, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Holt and Henderson
Managers on the part of the Senate

Representatives Stanley, Shito, Tungpalan and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 46 on H.B. No. 393

The purpose of this bill is to establish a land evaluation and site assessment commission under the Legislative Reference Bureau for administrative purposes to advise the Legislature in the formulation of a state land evaluation and site assessment system in identifying agricultural lands of importance to the State of Hawaii.

Your Committee noted the concern expressed by the State House of Representatives, the Department of Agriculture, and the Sierra Club relating to the possibility of excessive or inappropriate conversion of agricultural land to other uses.

Your Committee finds that faithful adherence to present state constitutional provisions for agricultural land classification or zoning, statutory protection and promotion of agriculture, and regulatory identification of important agricultural land will substantially prevent such inappropriate and excessive conversion of agricultural land to other uses.

Your Committee has amended the bill by deleting the requirement that one member of the land evaluation and site assessment commission be from the United States Department of Agriculture's Soil Conservation Service, and instead increased the number of positions to be filled by the general public from one to three. Although your Committee has also deleted the requirement that one member be an individual with a background in land use economics, your Committee strongly recommends that the total composition of the commission should reflect some expertise and knowledge in the field of land use economics to best serve the interests of its members and the community at large.

Your Committee has also amended the bill by allowing the commission discretion to pattern the land evaluation and site assessment system after the Soil Conservation Service's land evaluation and site assessment system (LESA). Also added to the bill is the specification that the commission shall take into consideration existing data provided by previous studies done under the Land Study Bureau and appropriate attributes of the Land Study Bureau's Detailed Land Classification System and the Agricultural Lands of Importance to the State of Hawaii System.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 393, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 393, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Hagino and Ajifu

Managers on the part of the Senate

Representatives Say, Kiyabu, Bunda, Kawakami, Menor, Nakata, Souki,
Takamine and Isbell

Managers on the part of the House

Conf. Com. Rep. No. 47 on S.B. No. 1338

The purpose of this bill was to address concerns expressed by the legislative auditor's Sunset Evaluation Report on the Real Estate Commission.

Chapter 467, Hawaii Revised Statutes, entitled: Real Estate Brokers and Salesman, which regulates real estate activity in Hawaii, was the subject of the legislative auditor's Report No. 83-7. In his report the auditor cited the need for "continued regulation of real estate salespersons and brokers", but recommended "chapter 467, Hawaii Revised Statutes, be amended".

Senate bill 1338, S.D. 2, H.D. 2, addresses these concerns by:

- (1) Deleting the good character requirement of section 467-8, and the residency requirement of section 467-9.5;
- (2) Authorizing the Commission to establish deadlines for the submission of license applications;
- (3) Clarifying the Commission's authority to establish experience guidelines;
- (4) Increasing the maximum liability of the Real Estate Recovery Fund from \$40,000 to \$50,000 for any one licensee, and to increase the ceiling amount for recovery from the Real Estate Recovery Fund from \$10,000 to \$20,000 per transaction;
- (5) Allowing the Department of Commerce and Consumer Affairs to make a special assessment on all licensees at anytime that the minimum balance in the Real Estate Recovery Fund falls below \$150,000;
- (6) Authorizing the Commission to prescribe by rule such other conditions relating to licenses as it deems necessary.

Your Committee upon further consideration has amended the bill by increasing the ceiling amount for recovery from the Real Estate Recovery Fund from \$20,000 to \$25,000 per transaction, by raising the minimum balance of the recovery fund from \$150,000 to \$350,000, and by making a technical nonsubstantive change.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1338, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1338, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Shito, Hirono, Ikeda, Kawakami, Kiyabu, Lardizabal, Souki and Tom

Managers on the part of the House

Conf. Com. Rep. No. 48 on S.B. No. 1050

The purpose of this bill is to provide high school students greater access to classes outside their district.

Your Committee finds that present Department of Education policy is to permit school district exemptions to allow a student to enroll in a specific class in another school if that class is not offered in that student's school district. This bill gives statutory authority for high school students to attend classes outside their school districts.

Your Committee has amended the bill to provide that a high school student "shall" rather than "may" be allowed to attend classes outside the district to which the student is assigned.

In order to balance the changing of the permissive "may" to the mandatory "shall",

your Committee has further amended the bill to specify that out of district attendance will be allowed on the conditions that such attendance will not prevent a student regularly enrolled at a school from attending classes and that admission to classes of a student from outside a school district is on a first-come, first-served basis. The purpose of this amendment is to clarify that out of district attendance at classes is not to be granted on an unlimited basis but only as practicable within the limitations of class size.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1050, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1050, H.D. 1, C.D. 1.

Senators Solomon, Mizuguchi and Ajifu
Managers on the part of the Senate

Representatives Hashimoto, Leong, Morgado, Okamura and Jones
Managers on the part of the House

Representatives Leong and Okamura did not sign the report.

Conf. Com. Rep. No. 49 on S.B. No. 1122

The purpose of this bill is twofold: (1) to amend section 312-2.1, Hawaii Revised Statutes, to exempt the position of state librarian from Chapters 76 and 77, Hawaii Revised Statutes; and (2) to raise the salary of the state librarian to the equivalent of a first deputy to a department head.

Your Committee finds that Act 150, Session Laws of Hawaii 1981, increased the responsibilities of the State Librarian. Your Committee does not agree, however, that the increase in responsibilities justifies a raise in the salary to the equivalent of a first deputy, and has deleted the proposed change in status from the bill and retained the existing salary established in 1982. The 1981 salary deletion is retained as it is unnecessary to keep this provision.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1122, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1122, S.D. 2, H.D. 2, C.D. 1.

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

Senator A. Kobayashi did not sign the report.

Representatives Hashimoto, Apo, Kawakami, Kiyabu, Yoshimura and Jones
Managers on the part of the House

Representative Apo did not sign the report.

Conf. Com. Rep. No. 50 on H.B. No. 1018

The purpose of this bill is to permit the establishment of international banking facilities in Hawaii.

Your Committee finds that international banking facilities would promote foreign investment, especially from Asia, promote Hawaii as a financial center, and yet not pose a threat to domestic financial institutions.

The bill provides that international banking facilities be placed within the Department of Commerce and Consumer Affairs for regulatory and administrative purposes and appropriates \$25,000 to the department to carry out such functions.

The department, however, has informed your Committee that international banking facilities are thoroughly regulated by the Board of Governors of the Federal Reserve Board. Any attempt by the State of Hawaii to regulate these facilities, therefore, would be duplicative and of little economic utility. The department prefers to serve mainly a record-keeping function by receiving notice when a financial institution desires to establish an international banking facility and copies of quarterly operations reports prepared for the Federal Reserve Board. With this more limited function, the \$25,000 appropriation would not be needed.

Your Committee upon further consideration has amended H.B. No. 1018, H.D. 2,

S.D. 2, as suggested by the Department of Commerce and Consumer Affairs, to limit the department's function to receiving notice of establishment of an international banking facility and copies of quarterly operations reports. The appropriation, accordingly, has been deleted. Technical amendments utilizing correct bill drafting style have also been made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1018, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1018, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Cobb and Ajifu
Managers on the part of the Senate

Representatives Shito, Say, Kiyabu, Hirono, Matsuura, Wong, Kawakami and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 51 on S.B. No. 80

The purpose of this bill is to permit the Family Court to release the name and address of a juvenile law violator and the name of the parent or guardian of the juvenile to the victim when the victim intends to file a civil action for injury, damage, or death caused by the juvenile.

Your Committee upon further consideration has amended the bill to require that when a juvenile's name and address is released, the juvenile, the juvenile's legal representative, and the juvenile's parents or custodians will be notified.

Your Committee finds that as a matter of fairness, the minor, the minor's parents or custodian, and the minor's legal representative shall be apprised when information regarding the minor is released.

Your Committee does not intend that an exhaustive search be conducted to notify the parent or custodian. They need only be notified when they can be located from information the court already has. Therefore, the bill requires notification of the juvenile's parents or custodian only when practical. For the same reason, your Committee has amended the bill to permit the release of the parents' or custodians' names only when practical.

Also, your Committee has declined to permit inspection of police records by victims of juvenile traffic violations which resulted in injury or damage. The records are presently available only when death occurs. Your Committee finds that expanding availability will seriously intrude into the right of confidentiality of the juvenile. Persons who intend to sue are able to obtain the police records by application to the court through court rules. Therefore, your Committee has deleted the provision that such records shall be available for inspection when the person intends to sue for injury or damage.

Your Committee also has deleted the provision that limits inspection of police records to situations where the records contain the name and address of the minor and the name of the parent or guardian. Your Committee finds that in view of the seriousness of the loss, the victim's estate should be able to inspect the police records of the traffic violation, regardless of whether the records have the name and address of the minor and the name of the parent or guardian.

Your Committee also has made technical nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 80, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 80, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Stanley, Hirono, Tungpalan and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 52 on S.B. No. 1003

The purpose of this bill is to amend chapter 484, Hawaii Revised Statutes, the Uniform Land Sales Practices Act, to modernize the procedural aspects of the Act,

and assure that consumers are adequately protected.

Presently, chapter 484 prohibits the disposition of lots in a subdivision until the subdivision is registered with the state Department of Commerce and Consumer Affairs, and the prospective purchasers are provided a copy of the current public offering statement and have had a reasonable opportunity to examine the statement. Certain types of transactions, subdividers, and small subdivisions are exempt from the chapter. The intent of chapter 484 is to assure that potential purchasers are protected, by requiring the subdivider to provide adequate disclosure of information on the subdivision to prospective purchasers of lots.

Your Committee finds that the county governments also regulate the sale of lots in a subdivision. For example, Rule 1-103(d) of the Subdivision Rules and Regulations of the City and County of Honolulu provides that "No person shall sell, transfer, or advertise, any interest in land located in a subdivision...until the final map thereof has been approved by the Director [of Land Utilization] and recorded in (sic) the State Registrar of Conveyances, Registrar of the Land Courts or Office of the State Surveyor."

Your Committee also finds that although certain types of subdivisions are exempt from chapter 484, to assure that prospective purchasers are protected, the state Department of Commerce and Consumer Affairs does not grant the exemption until the subdivision receives final approval from the county government.

To obtain final approval of the subdivision from the county government, various conditions must be met. For example, in the City and County of Honolulu, detailed construction plans of the subdivision must be prepared, and approved by the city agencies, and the park dedication ordinance requirement must be satisfied. Then, to obtain final approval of the subdivision, either the subdivision improvements must be completed and accepted by the city (by dedication of all roads and easements by the subdivider to the city), or the subdivider must provide the city with a financial guarantee that the improvements will be completed. If the subdivider chooses to obtain final approval of the subdivision by providing a financial guarantee, the city will require that the contractor's performance bond, the subdivider's completion bond, a maintenance bond, and an energizing bond be posted by the subdivider.

Since most subdivisions are completed by way of financing through a construction loan, and since the construction lender will not disburse any loan funds without the city-approved subdivision as security underlying its construction loan mortgage, the subdivider must solicit a surety company to underwrite the bonds required by the city to obtain final approval of the subdivision to satisfy the lender's legal requirements for security of the construction loan.

Before the surety issues the bonds to the city, however, the surety will require that the construction lender issue a set-aside letter to the surety. The set-aside letter irrevocably sets aside funds in the construction loan for the use of the surety in the event that the subdivider defaults in any manner in completing the subdivision as required by the city. The construction lender, however, will not issue the set-aside letter until it is assured that the subdivision project is viable, and its loan is secure. Thus, the lender requires that the subdivider pre-sell enough lots to cover the construction loan amount, to assure that the loan is secure, before it issues the set-aside letter to the surety. The subdivider, therefore, must pre-sell lots to obtain final approval of the subdivision, although state and city requirements prohibit these pre-sales until after final approval is granted.

This bill resolves the above-cited legal dilemma, by allowing the sale of lots upon preliminary approval of the subdivision, yet assuring that purchasers are protected. The bill establishes a procedure to allow a purchaser to rescind the transaction if there is a material difference with regard to the lot or the terms of the purchase between the preliminary and final approvals. This procedure has been patterned after the State's condominium law, which was drafted to allow pre-sales before the final public report is issued.

The bill also amends the Act to allow the Director of Commerce and Consumer Affairs to adopt rules which will assist in obtaining certification of our state law by the Secretary of Housing and Urban Development, pursuant to 15 U.S.C. section 1708. This certification will allow any offering statement for land in Hawaii to suffice for the requirements of any other state which has its law certified and vice versa. This will obviate the reregistration of a public offering statement for land in Hawaii in a multiplicity of other states where the subdivision may be sold and vice versa.

The bill also makes various housekeeping amendments, including allowing the Director to hire consultants to review any applications submitted, and raising the fees for applications and property inspections. The existing sections on revocation of orders, penalties, and civil remedies have also been amended for housekeeping purposes.

A more specific delineation of the amendments in this bill follows:

1. Section 484-3 has been amended to provide that certain persons who were exempt from the chapter, at their election, may choose to be subject to the chapter. A person who offers less than twenty separate lots within a twelve-month period, or a person who is engaged in the business of construction of buildings for resale or who acquires an interest in subdivided land for the purpose of engaging in the business of construction of buildings for resale, by filing a written election with the Director of Commerce and Consumer Affairs, may choose to be subject to chapter 484.

Section 484-3(b) has been amended to delete the provision that a subdivision granted an exemption by the Director under section 484-10 is exempt from the chapter. This clarifies that the exemption provided by section 484-10 is an exemption from the registration and public offering statement provisions of the chapter, and require that transactions for lots in subdivisions granted the exemption under section 484-10 still provide the purchaser protection afforded under the other sections of the chapter.

2. Section 484-4 has been amended to clarify that subdivisions exempted by the Director under section 484-10 are not subject to the registration and public offering statement provisions of the chapter.

The section has also been amended to clarify that the subdivision may be offered and sold after a preliminary order or final order registering the subdivision is entered, in accordance with the new provisions of the chapter.

3. Section 484-5 has been amended to require that the subdivider provide, as part of the application for registration of the subdivision, an executed copy of the escrow agreement in a form required by the Director.

Section 484-5 also has been amended to require that the subdivider provide, as part of the application for registration of the subdivision, any documents or information as required to assure that the Hawaii Land Sales Practices Act complies with the certification standards which the Federal Department of Housing and Urban Development may require.

4. Section 484-6 has been amended to provide that the proposed public offering statement submitted to the Director for review include information to assure full and fair disclosure as may be required to obtain certification of the registration by the Secretary of the Department of Housing and Urban Development.

Section 484-6 also has been amended to provide that the proposed public offering statement also include a statement informing the purchaser that the purchaser has a seven-day period after signing the lot purchase contract to rescind the contract without penalty.

5. Section 484-7 has been amended to require the Director to examine the application for registration to assure that the the property, and not to allow speculators a legal means to purchaser has a seven-day period after signing the lot purchase contract to rescind the contract without penalty. The new language added to this section with regard to the issuance of the notice of filing has been moved here from section 484-8.

A new subsection has been added to establish standards for the inquiry and examination of applications for exemption. The standards are substantially similar to those delineated for registration applications.

6. Section 484-8 has been amended to establish time periods within which the preliminary and final orders must be entered by the Director. The amended section also requires the Director to enter a final order exempting the subdivision if the requirements of section 484-10(g) are met.

7. In order to protect the purchasers during the pre-sale period, new sections 484-8.5, 484-8.6, 484-8.7, and 484-8.8 adopt a structure like the one presently

used in chapter 514A.

In particular, section 484-8.5(a), which corresponds to section 514A-37, authorizes the issuance of a preliminary order of registration or exemption. Section 484-8.5(b) requires the director to respond to applications for preliminary orders in the same manner as applications for final orders. Section 484-8.5(c) authorizes the subdivider to solicit sales and accept earnest money deposits upon entry of a preliminary order of registration or exemption, regardless of any county law to the contrary. Section 484-8.5(d), which corresponds with section 514A-65, requires that purchaser's funds be held in escrow until a final order is issued. However, during the seven-day rescission period given to buyers, the buyers' funds are not required to be placed in escrow if the funds either take the form of a check or other instrument payable to the escrow agent only, or where the subdivider or the subdivider's sales people cannot otherwise negotiate the instrument representing the earnest money deposit. No cash deposits may be accepted by the subdivider or agents. Section 484-8.5(e), which corresponds with section 514A-63, prohibits the subdivider from requiring the buyer to go through with the buyer's purchase until the director enters a final order of registration or exemption, even though the buyer may have signed a binding contract with the subdivider.

Section 484-8.6(a) requires the subdivider to notify the director of any material changes when the subdivider applies for a final order. Section 484-8.6(b) makes explicit that which is implicit in section 514A-63, if a material change is made in the subdivision between the time of the preliminary approval and the final approval, the purchaser should be given notice of the change and an opportunity to rescind the purchaser's contract and obtain a refund of the purchaser's earnest money deposits if the purchaser objects to the change. This is intended to give the purchaser an opportunity to determine whether such changes would have affected the purchaser's initial decision to sign the contract to purchase the property, and not to allow speculators a legal means to breach their obligation to perform. To assure that subdividers are not left in limbo for a protracted period while the buyers make their decision, the buyers are given the same rescission period they were given initially --seven days--and a cut-off mechanism patterned after the one provided in section 514A-66 of the condominium law is included. Section 484-8.6(c), which corresponds with section 514A-66, permits purchasers to rescind otherwise binding sales contracts if the developer fails to obtain final approval within one year after preliminary approval is obtained. This is intended to ensure that purchasers who sign a binding contract upon entry of a preliminary order may not be held in limbo, unable to close and unable to cancel, if the subdivider fails to obtain final approval in a timely fashion. Section 484-8.6(d) makes explicit that which is implicit in sections 514A-63, 514A-64, and 514A-66. This is provided so as to avoid any confusion as to the application of subsections (b) and (c).

Section 484-8.7 is intended to ensure that prospective purchasers who sign a reservation based on a preliminary order are notified of any material changes to the subdivision before signing a contract binding them to purchase the land previously reserved. This is intended to give the purchaser an opportunity to determine whether such changes would have affected the purchaser's initial decision to sign a reservation to purchase the property.

Section 484-8.8 establishes a receipt mechanism which is intended to assure compliance with the Act and to aid the escrow agent in determining whether the sale may be closed.

8. Section 484-10 has been amended to require that the exemption under subsection (g) be granted if the requirements of section 484-7(b) and 484-8.5 are met. These new requirements supersede the deleted requirement that the Director determine that "the plan of promotion and disposition is primarily directed to persons in the local community or county in which the subdivision is situated".

Section 484-10 also has been amended to require the Director to establish, through rules, a procedure for exemption from registration.

Subsection (f) has been amended to include language allowing the Director to seek certification of Hawaii's Act from the Secretary of Housing and Urban Development pursuant to 15 U.S.C. section 1708.

Two new subsections have been added to allow the Director to hire consultants to do the property inspection reports and review the applications for registration and exemption. This provision is patterned after the condominium law's provisions allowing consultants to review condominium filing applications.

9. Section 484-13 has been amended to extend the revocation to an exemption, as well as a registration.

10. Section 484-15 has been amended to extend the penalties for violation of the chapter to any person who wilfully makes any untrue statement or omits a material fact in an application for exemption.

11. Section 484-16 has been amended to extend the liability for untrue statements or omissions of material facts to an exempt subdivision application, as well as a registration application, and extends the civil remedies available under this section to these exempt subdivision cases.

The section also has been amended to clarify that the burden of proof with respect to the subdivider's defenses in a case of an untruth or omission rests on the subdivider.

This section also clarifies that where the subdivider claims that the subdivider could not have known of the untruth or omission, that the subdivider has exercised "reasonable care" of a person "in that person's occupation". This amendment clarifies that the standard of reasonable care to be exercised by the subdivider, sales agents, or any other agents is that of a person in a professional capacity, and that this case is greater than that which a lay person would be expected to exercise.

12. Section 484-20 has been amended to update the fee structure for applications, and increase the amounts of per diem and salary of state officials and consultants for property inspections. The section also has been amended to allow the fees and amounts for expenses to be increased by rule.

It is your Committee's intent that the sums collected by the Department for payment of the consultants in their review of applications or preparation of inspection reports under section 484-10(h) and (i) be held as trust funds by the Department in lieu of deposit to the state general fund.

Your Committee wishes to acknowledge the assistance of the Hawaii State Bar Association, Real Property and Financial Services Section, which provided much of the language contained in the Conference Draft attached hereto. Their working knowledge of the state and federal land sales laws was an invaluable resource to your Committee.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1003, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1003, S.D. 1, H.D. 1, C.D. 1.

Senators Young, Cobb and Ajifu
Managers on the part of the Senate

Representatives Hirono, Apo, Shito, Tam, Tom and Jones
Managers on the part of the House

Representatives Apo and Jones did not sign the report.

Conf. Com. Rep. No. 53 on H.B. No. 753

The purpose of this bill is to amend Section 302(a), of the Hawaiian Homes Commission Act to reflect the recent reapportionment of voting districts by deleting the requirements that the three Honolulu members reside in certain Senatorial districts, and to specify that, of the eight members on the Hawaiian Homes Commissions, there be at least one attorney, one real estate broker, one teacher, and one businessman.

Under present law membership on the Commission must include three residents of the City and County of Honolulu, one each from the Third Senatorial District, the Fourth Senatorial District, and the Fifth, Sixth, or Seventh Senatorial District. Neighbor island county representatives are selected on a county basis. This bill would change senatorial district representation from Oahu to island-wide representation.

Your Committee has discussed fully the bill's additional proposal that the eight-member Commission include at least one attorney, one real estate broker, one teacher, and one businessman. Your Committee is of the opinion that there should be no occupational specification in designating members to the Commission. The appointing authority should have flexibility in selecting qualified people whatever

their occupations might be. Thus, your Committee has deleted the underscored proviso from lines 8-14 on page 2.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 753, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 753, S.D. 1, C.D. 1.

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

Senator A. Kobayashi did not sign the report.

Representatives Say, Crozier, Nakata, Souki and Dang
Managers on the part of the House

Conf. Com. Rep. No. 54 on H.B. No. 1587

The purpose of this bill was to require liquor wholesalers to order, purchase, and receive liquor from the primary source of supply for the brand of liquor sought to be sold and provide that no supplier shall solicit, accept or fill any order for a licensee unless the supplier is the primary source of supply.

Your Committee finds that the bill acknowledges the right of any manufacturer in a free market to select or franchise wholesalers through which its products will be sold or distributed. Your Committee further finds that the bill is not a franchise protection law, but that it permits franchises to exist as in the case of a free market. Your Committee feels that this "primary source" law would encourage competition, prevent monopolies, and facilitate tax collection and liquor control.

Pursuant to this bill, the penalty for violation shall be the revocation of the license for not less than six months.

Because of concerns as to the effect of the bill on present wholesalers, the bill grandfathered all liquor wholesalers who were licensed and actively engaged in the wholesale liquor business in Hawaii on April 1, 1983 and all persons who had a request for a liquor license on file with the applicable liquor commission on that date. Hence, no one presently in the liquor business should be adversely affected by this bill. The bill provides, subject to an exception for transfers to relatives, that a licensee loses its grandfathered status upon a change in ownership. The Committee intends that this provision be interpreted strictly to prevent persons who enter the liquor business after April 1, 1983 from "purchasing" or otherwise obtaining the use of a grandfathered license and thus, avoiding the prohibitions of the bill. In this connection, the Committee intends that the bill preclude persons entering the business after April 1, 1983 from utilizing grandfathered licenses through the formation of joint ventures or similar business arrangements with grandfathered licensees.

Your Committee upon further consideration has therefore amended the bill to provide that if the licensee is a corporation, a change in ownership shall be deemed to be a change in ownership of twenty-five per cent or more of the capital stock, or a change in ownership of any number of shares of stock which results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding capital stock. A sale or transfer of ownership of a licensee, including transfers of stock if the licensee is a corporation, to a spouse, the children or grandchildren, the parents or grandparents, a brother, a sister or other relative of the present owner shall not be deemed to be a change in ownership for purposes of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1587, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1587, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, B. Kobayashi, Uwayne and Soares
Managers on the part of the Senate

Senator Soares did not sign the report.

Representatives Shito, Kim, Honda, Matsuura and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 55 on S.B. No. 904

The purpose of this bill was to establish standards for the business relationship

between suppliers of office machine products and dealers.

As received by your Committee, the main thrust of this bill was to protect the market area of dealers by restricting suppliers from establishing new dealers in a market serviced by an existing dealer of the same product.

Upon further consideration of this measure, your Committee has extensively amended the bill. As amended, the bill focuses on wrongful or illegal termination or cancellation of a "dealership" or unreasonable refusal to renew the dealership. A "dealership" is defined as an agreement between a "distributor" and a "dealer" in which the dealer is granted the right, for a definite or indefinite period of time, to sell products on behalf of a distributor to consumers.

The dealer is given a cause of action against a distributor who wrongfully terminates or unreasonably refuses to renew a dealership. The bill also allows a distributor to terminate a dealership for cause, but specifies that termination or failure to renew for the purpose of enabling the distributor to assume operation of the dealer's business shall not be considered good cause unless the dealer is paid reasonable compensation. In addition, the bill provides for return of inventory and cancellation of debts owing from the dealer to the distributor on account of the inventory upon termination of a dealership.

Your Committee notes that the amendments to the bill are largely based on Chapter 486H, Hawaii Revised Statutes, which sets standards for the business relationship between petroleum distributors and gasoline dealers.

Your Committee finds that this bill, as amended, will help to equalize the relationship between distributors and dealers.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 904, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 904, S.D. 1, H.D. 1, C.D. 1.

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

Senator Soares did not sign the report.

Representatives Shito, Hirono, Ikeda, Kim, Lardizabal and Wong
Managers on the part of the House

Representative Lardizabal did not sign the report.

Conf. Com. Rep. No. 56 on S.B. No. 903

The purpose of this bill is to allow the Board of Land and Natural Resources to designate geothermal resource subzones within all four (4) land use classifications: conservation, agricultural, rural and urban. In addition, the bill would allow a person who discovers mineral resources on State land to be reimbursed for the direct and indirect costs of exploration if that person is later unsuccessful in obtaining a mining lease from the State to develop that resource.

Under the provisions of this bill, the Land Board would have the sole authority to: (1) designate subzones; and (2) to control geothermal development within those subzones. Your Committee believes however, that the better approach would be to have the counties control development within the agricultural, rural and urban districts once a subzone has been established by the Land Board. S.B. No. 903, S.D. 1, H.D. 2, has therefore been amended to continue the present system of county control within these three land use designations.

Your Committee has also clarified the procedures to be followed by the Land Board in selecting a potential subzone site and the procedures to be followed in designating a parcel of land as a subzone. It is your Committee's intention that the Land Board designate subzones pursuant to its rule-making procedures and thereafter all geothermal activities within the subzones shall be governed by all currently applicable statutes, including Chapters 183, 205A, 226 and 343.

The bill also lists seven factors or criteria to be assessed by the Land Board before designating a subzone. The Land Board may use currently available public information by which to assess potential subzone areas rather than engaging in an extensive and costly survey throughout the State.

Your Committee has amended the wording of the second criterion listed in subsection (b) to require the Land Board to examine the prospects for the utilization of geothermal energy in the area. In this way, the Land Board is to review the likelihood of a potential geothermal subzone to be developed should the area actually be designated as a subzone. The Land Board would thus be required to give higher priority to designate areas as subzones which have a high likelihood of development by the landowner than those areas which are likely to remain undeveloped.

Other changes in the bill concern the use of the word "compatible" in the fifth criterion in assessing the potential conflicts between geothermal development and any potential related industries to surrounding land uses in the development area. The last criterion in subsection (b) also requires the Land Board to consider the relationship of potential impacts of geothermal development and related industries to the purposes and policies of the Conservation District where a geothermal subzone encompasses conservation lands. Your Committee believes that it is not the intent of this bill to require that the nature of the surrounding uses or the purposes and policies of the Conservation District strictly conform to geothermal development, but only that the Land Board examine the relationship of geothermal development with the other uses allowed in that land use classification or uses within surrounding lands.

Your Committee realizes that geothermal development may in some instances not be strictly compatible with surrounding uses or the purposes of the Conservation District. However, a subzone could be designated after the potential impacts have been assessed and where it is found that it is important to develop the geothermal energy potential of the area. Your Committee therefore realizes that the compatibility must be examined in the form of finding an acceptable relationship among the differing objectives and policies rather than requiring strict compatibility.

Senate Bill 903, S.D. 1, H.D. 2, has further been amended to require that after a consideration of all potential areas for subzone designation, the Land Board shall select those areas that can best demonstrate an acceptable balance among the criteria set forth in the bill. This determination will then require that all seven criteria be given equal consideration in the designation of a subzone.

An additional provision made to S.B. No. 903, S.D.1, H.D. 2, is to provide that a landowner or person with an interest in land may submit a petition to the Land Board for designation of a parcel of land as a geothermal resource subzone. This procedure would allow potential subzone areas which have not been initially designated as subzones by the Land Board to be later included as a subzone if the particular parcel of land satisfies the criteria set forth in the bill.

Your Committee is aware that there are developers within the State who currently have permits which allow active geothermal exploration or development and has specifically provided that the enactment of this bill is not intended to affect any of those ongoing activities or rights. Any further or future expansion of those geothermal exploration and development activities within the State will, however, have to comply with the provisions of this bill upon its enactment.

Your Committee is in accord with the intent and purpose of S.B. No. 903, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 903, S.D. 1, H.D. 2, C.D. 1.

Senators Aki, Machida and Henderson
Managers on the part of the Senate

Representatives Say, Okamura, Kiyabu, Kawakami, Kiyabu-Saballa Matsuura,
Menor, Morgado, Yoshimura and Isbell
Managers on the part of the House

Representatives Kiyabu-Saballa and Menor did not sign the report.

Conf. Com. Rep. No. 57 on S.B. No. 787

The purpose of this bill was to provide that apartment owners who wish to change their designated parking stalls need only get the approval of owners whose stalls are affected, the lessor and the mortgagee.

Your Committee upon further consideration has amended this measure. The bill, as amended:

(1) Amends Section 514A-82 to require the bylaws to provide for manner of collecting costs and fees recoverable under Section 514A-94 and late charges; to require association and board meetings to be conducted under the most current edition of Roberts Rules of Order; and to provide for penalties for violations of the declaration, bylaws, and administrative rules.

(2) Adds a new section to require that board meetings be open to all members of the association, subject to provisions for executive sessions.

(3) Adds a new section regarding proxies.

(4) Adds a new section requiring the keeping of a membership list of association members.

(5) Adds a new section requiring keeping of minutes of board and association meetings as well as the association's financial statements.

(6) Clarifies Section 514A-88.

(7) Adds Section 514A-89 which allows work to be done on the property with the consent of seventy-five per cent of apartment owners required to amend the declaration rather than all owners.

(8) Adds Section 514A-94 to provide that if any claim by an owner against an association or board is substantiated, reasonable expenses, costs and attorneys' fees incurred by an owner shall be awarded to the owner, provided the owner allowed the board reasonable time to pursue the enforcement or the owner shows to the satisfaction of the court that a demand for enforcement made to the board would have been fruitless.

Your Committee also amended the bill to conform to recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 787, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 787, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Shito, Hayes, Hirono, Tom and Ikeda
Managers on the part of the House

Representative Hayes did not sign the report.

Conf. Com. Rep. No. 58 on H.B. No. 966

The purpose of this bill was to require insured motorists to obtain from the insurer of the vehicle an insurance certificate stating that a no-fault insurance policy was in force for the owner of the vehicle and that the policy, if written within the preceding thirty days had at least three months of pre-paid coverage. The certificate was to contain the name of the insurance company and the signature of an authorized representative of the insurance company.

The bill further required that every no-fault insurer issue a certificate when requested by an insured to provide proof of insurance.

Finally, the bill required that an insurer notify the Director of Finance of the county in which a vehicle was registered if the insurer had reason to believe that the vehicle was no longer insured. The Director was to hold the notice until the next vehicle inspection due date and at that time the owner was to prove that insurance was in force and had been since the last inspection date, or be subject to a fine as an uninsured motorist. This requirement and the proof of three months of pre-paid insurance was to rectify the situation wherein motorists obtain no-fault certificates and later cancel or fail to pay for their policies.

Your Committee concurs with the necessity of dealing with the problems caused by uninsured motorists who comprise approximately 19.4 per cent of drivers in Hawaii. This minority of drivers who refuse to obtain the motor vehicle insurance coverage required under the law, exercise the privilege of driving without assuming the concomitant responsibility to obtain and maintain valid no-fault insurance. These uninsured motorists pose a threat to the rest of society.

Your Committee, upon further consideration, has amended the bill:

- (1) To provide for proof of financial responsibility upon conviction of failure to have an effective no-fault insurance policy as required by Section 294-8(a), Hawaii Revised Statutes;
- (2) To provide for an initial no-fault policy which has been pre-paid for two months or enrollment in an established payroll deduction plan whereby direct payment can be made to the insurer by the insured's employer;
- (3) To provide that no-fault policies shall be issued for a period of not less than six months;
- (4) To provide that failure to display no-fault cards as required under Section 294-8.5, Hawaii Revised Statutes, shall be prima facie evidence of failure to have current no-fault insurance;
- (5) To provide for, in addition to the no-fault identification card currently required pursuant to Chapter 294, Hawaii Revised Statutes, an adhesive identification card showing the motor vehicle serial number, insurance policy number, description of the insured vehicle, and, in bold print, the date of expiration of the insurance policy;
- (6) To provide that the insurer shall issue the no-fault cards only for the policy period;
- (7) To provide that if the insured wishes to cancel or terminate a no-fault policy and requests premium refunds, the insured shall return the cards to the insurer by registered or certified mail, or in person;
- (8) To provide that each card shall have a large number signifying the month of expiration of the no-fault policy, and shall be of such size, color, and print size as determined by the commissioner by rule adopted pursuant to chapter 91, Hawaii Revised Statutes;
- (9) To provide that the insured shall attach the adhesive identification card to the inside lower right corner of the insured vehicle's front windshield; provided that in the case of vehicles of less than four wheels, the card shall be attached adjacent to the vehicle's safety inspection sticker;
- (10) To provide that anyone who fails to display an adhesive no-fault identification card as required by Section 294-8.5, Hawaii Revised Statutes; or who makes, issues, or knowingly uses any fictitious, or fraudulently altered no-fault insurance identification card; or upon any public highway or in any public place, as defined in Section 711-1100, Hawaii Revised Statutes, displays or causes or permits to be displayed a no-fault insurance identification card knowing that the no-fault policy was canceled, shall be in violation of the no-fault insurance law;
- (11) To provide that, upon cancellation or refusal to renew an insurance policy, written notice shall be given to the insured, not less than thirty days prior to the effective date of such cancellation or refusal to renew, and within ten days following the insured's receipt of such notice, the insured shall provide to the Director of Finance a photocopy of a current binder, insurance policy, or no-fault identification card;
- (12) To provide that meter maids, in addition to police officers, shall be authorized to issue citations for failure to display a current adhesive no-fault identification card;
- (13) To provide that such a violation for failure to display a current adhesive no-fault identification card shall be subject to a fine of not less than \$300, \$100 of which shall be deposited into the General Fund, \$100 of which shall be deposited to the account of the county in which the citation was issued, and the balance, if any, shall be deposited into the Assigned Claims Fund;
- (14) To provide that, in order to establish a defense against a violation, the insured shall provide both a valid no-fault card showing insurance coverage on the date of the citation, and, in addition, independent verification from the insurer who issued the no-fault card that the defendant did in fact have a valid no-fault policy in effect on the date the citation was issued;

- (15) To provide that any person on a public highway or in a public place may be issued a citation for a violation of the no-fault law and that such a citation shall be issued to both the registered owner and the operator of the vehicle if the operator is not the same person as the owner;
- (16) To provide that this bill does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date;
- (17) To provide that this bill shall take effect on January 1, 1984; provided that any provision in this bill relating to the functions and duties of the Insurance Commissioner concerning the adoption of rules shall take effect upon approval;
- (18) To provide further that this bill is repealed effective June 30, 1986; and
- (19) To provide for an interim report to be made by June 30, 1985 by the Insurance Commissioner regarding the status of uninsured motorists in the State.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 966, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 966, H.D. 2, S.D. 1, C.D. 1.

Senators Cobb, Chang, Uwaine and Henderson
Managers on the part of the Senate

Representatives Shito, Kim, Honda, Lardizabal, Graulty and Ikeda
Managers on the part of the House

Representative Lardizabal did not sign the report.

Conf. Com. Rep. No. 59 on H.B. No. 915

Your Committee has amended H.B. No. 915, S.D. 1, C.D. 1 to clarify that the Hawaii Supreme Court in Joshua v. MTL, Inc. and McAulton v. Goldstrin may have removed the applicability of no-fault limitations to non-insureds, but not all statutes of limitations. Thus, it appears that a non-insured person would still be subject to statutes of limitations applicable to causes of action in general.

Because of the importance of this bill, your Committee wishes to reiterate the discussion presented in the prior committee report on this bill.

The purpose of this bill is to restate and clarify the intent of the Legislature in enacting Sections 294-6(a) and 294-36(b), Hawaii Revised Statutes, concerning the barring of suits by uninsured motorists for injuries sustained in motor vehicle accidents. That intent was, and still remains:

- (1) To prevent a person who is ineligible for no-fault benefits from bringing a civil action if the medical-rehabilitative limit is not reached within two years of the date of the motor vehicle accident; and
- (2) To deter persons from driving without motor vehicle insurance coverage, not only through criminal penalties, but further through a limitation on the ability of the uninsured motorist to recover for injuries in tort which is more stringent than the limitation placed upon those who have obtained the insurance coverage required by law, and who are therefore entitled to no-fault benefits.

The majority opinion of the Hawaii Supreme Court in both Joshua v. MTL, Inc. (#8177) December 29, 1982) and McAulton v. Goldstrin (#8071 December 30, 1982) misread the intent of the Legislature and may have removed all no-fault law limits on the time in which an uninsured motorist may bring an action for recovery in tort. The effect of the decisions is that law abiding citizens who obtain coverage may not sue in tort under Section 294-6(a)(2), Hawaii Revised Statutes, unless they reach the medical-rehabilitative threshold within two years of the last payment of no-fault benefits, whereas persons who have failed to obtain coverage can sue without first having to reach the threshold.

The system of no-fault insurance established by Chapter 294, can only be effective if all drivers participate to the extent required by law. This bill treats uninsured

drivers more severely than those who obtain the legally required coverage with the specific legislative intent of encouraging participation by all drivers in the no-fault insurance system. Since the Legislature has provided for persons who are economically unable to afford insurance under the public assistance provisions of the no-fault law, there is no valid reason for owners of motor vehicles not to have no-fault insurance for the motor vehicles which they use.

The bill also establishes a \$1,000 fee in lieu of fine, for failing to obtain no-fault coverage, for any uninsured person bringing on action in tort, and by providing that Section 294-6 shall apply regardless of the injured person's entitlement to no-fault benefits.

Your Committee upon further consideration has amended the bill as follows:

- (1) Provides for the intervention of the Attorney General, at the request of the Insurance Commissioner, in any case before any appellate court in the State of Hawaii in which the constitutionality or validity of Chapter 294, Hawaii Revised Statutes, or any part thereof is at issue, and may appeal to the United States Supreme Court, if necessary, to obtain a final determination of any case; and
- (2) Provides that Section 294-6, Hawaii Revised Statutes, regarding tort liability shall apply whether or not the injured person is entitled to receive no-fault benefits.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 915, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 915, S.D. 1, C.D. 2.

Senators Cobb, Chang, Uwaine and Soares
Managers on the part of the Senate

Representatives Shito, Lardizabal, Taniguchi, Tungpalan, Graulty and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 60 on H.B. No. 337

The purpose of this bill, as received by your Committee on Conference, is to extend the scope of the present law prohibiting the owner or controller of a motor vehicle from knowingly permitting a person not authorized by law to drive the vehicle to include owners of and persons controlling mopeds.

House Bill No. 337, H.D. 1, S.D. 1, would have changed the title of section 286-133, Hawaii Revised Statutes, from "[u]nlawful to permit unauthorized person to drive," to "[u]nlawful to permit unlicensed person to drive". Your Committee finds that the present title more accurately encompasses the subject of section 286-133, H.R.S., because that section deals not only with permitting the driving of one's vehicle by persons who do not have a Hawaii driver's license pursuant to section 286-102, H.R.S. but by persons who are exempted by section 286-105, H.R.S., from having to obtain such a license and by persons who do not hold an instruction permit under section 286-110, H.R.S.. Therefore, your Committee has amended page 1, line 3 of the bill to retain the word "unauthorized" in the title of section 286-133, H.R.S., and to delete the word "unlicensed".

In H.B. No. 337, H.D. 1, it was proposed that the word "knowingly" be removed from section 286-133, H.R.S.. Your Committee is concerned that the deletion of "knowingly" would permit the State to convict, for violation of this statute, persons who have innocently loaned their vehicles to persons reasonably believed by them to be licensed or otherwise authorized to operate motor vehicles or mopeds in the State. Therefore, your Committee has retained "knowingly" in the statute.

Enumerating the drivers to whom a motor vehicle or moped may not be entrusted under section 286-133, H.R.S., H.B. No. 337, H.D. 1, S.D. 1, provides at page 1, lines 7-11, "any person who does not possess a valid driver's license to do so under section 286-102, and who is not exempted under section 286-105, or who does not hold an instruction permit under section 286-110." Your Committee finds that this language does not address persons licensed or otherwise authorized pursuant to section 291C-194 to drive a moped. Your Committee is also concerned that any changes in Hawaii's laws pertaining to authorized operation of motor vehicles or mopeds be automatically incorporated into section 286-133, H.R.S.. Therefore, your Committee has amended the bill by removing the language underlined above and by replacing it with "is not authorized under law to drive the motor vehicle or moped."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 337, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 337, H.D. 1, S.D. 1, C.D. 1.

Senators Uwaine, Yamasaki and Soares
Managers on the part of the Senate

Senator Soares did not sign the report.

Representatives Taniguchi, Stanley, Tungpalan and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 61 on S.B. No. 1105

The purpose of this bill is to permit the controlled usage of designated carpool lanes on roadways or highways by motorcycles in the State of Hawaii.

The federal Surface Transportation Assistance Act of 1982 prohibits the appropriation of federal highway funds to states which do not allow motorcycles to use carpool lanes except when such use would create a safety hazard. This bill would help to conform state statutes to this newly passed federal law and help ensure the continued receipt of federal highway monies.

Your Committee finds that high-occupancy vehicle (HOV) contra-flow lanes are not included in the definition of a carpool lane by the Federal Highway Safety Administration. Further, the state department of transportation is aware of the exclusion of contraflow lanes at the federal level and has determined that motorcycles will be prohibited from using such lanes. The department believes that the continued exclusion of motorcycles would be in the best interest of safety and still allow for the efficient movement of traffic. Your Committee believes the option to allow access to such lanes by motorcycles should be at the discretion of the director of transportation rather than set by statute.

Your Committee, therefore, has amended this bill by deleting the prohibited use of high-occupancy vehicle (HOV) contra-flow lanes by motorcycles.

Should the director determine that the use of carpool lanes by motorcycles would no longer pose a safety hazard, an application will then be submitted to the Secretary of Transportation. Upon approval of the application, the director will then make the appropriate changes administratively rather than by amending the law.

This bill will allow the director flexibility in regulating the controlled access of certain vehicles to roadways or highways yet ensuring normal and safe movement of traffic.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1105, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1105, H.D. 1, C.D. 1.

Senators Uwaine, Aki and George
Managers on the part of the Senate

Representatives Taniguchi, Albano, Hayes, Lardizabal and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 62 on S.B. No. 1247

The purpose of this bill is to amend section 286-172, Hawaii Revised Statutes, to permit reasonable access to motor vehicle registration records contained in the statewide traffic records system while maintaining safeguards to ensure that any information obtained will not be used to invade the privacy of individuals.

Under present law, motor vehicle registration information contained in the statewide traffic records system may only be furnished by the director of transportation to: (a) a person having a legitimate reason, as determined by the director, to obtain the information for verification of vehicle ownership, traffic safety programs or statistical reports or (b) a person required or authorized by law to give written notice by mail to vehicle owners. Other information contained in the statewide traffic records system is presently obtainable by any person in response to governmental requests or by any person authorized under rules of the department of transportation.

The present law has been interpreted to require certain persons otherwise eligible to receive motor vehicle registration information to give written notice by mail to the owners of the vehicles regarding which information is sought. Your Committee finds that it was not the intent of the legislature in enacting Act 194, Session Laws of 1981, that persons be required to give notice to the owners of the vehicles.

This bill would allow any of three categories of persons eligible for receipt of such information: (1) requests from persons on behalf of a state, county, or federal agency or other persons authorized by department of transportation rule; (2) requests from persons having a legitimate reason, as determined by the department of transportation, for traffic safety programs or for research and statistical reports; or (3) persons required or authorized by law to mail notices to vehicle owners.

Presently, persons requesting motor vehicle registration information contained in the statewide traffic records system must file an affidavit stating the reasons for obtaining the information and assuring that the information will only be used for such reasons, that individual identities will be protected, and that the information will not be used to compile a "mailing" list for commercial solicitation, debt collection, or other prohibited purposes. This bill would make this affidavit requirement apply to requests for any information contained in the statewide traffic records system. It would also expand the prohibition against using the information for a commercial "mailing" list to include any kind of list and would clarify that such a list could not be used for commercial solicitations "by mail or otherwise".

This bill would treat persons who qualify to receive motor vehicle information and who request the entire file of information the same as persons requesting only part of the file. The bill explicitly provides that the fee to be charged for the information would be set by the director.

The bill deletes the requirement of filing with the director of transportation a corporate surety bond in favor of the State in the penal sum of \$25,000. The current bond amount has been determined to be inadequate. Your Committee has therefore amended the bill to require a bond to be filed with the director in a sum to be determined by the director. This will assure continued compliance with the terms and conditions agreed upon in the affidavit. This will also allow the director flexibility in adjusting the surety bond based on the information requested.

Your Committee upon further consideration has also amended the bill to clarify those persons otherwise qualified under subsection (a)(2) to receive the entire motor vehicle registration information. Such information shall be provided to persons who perform recalls authorized by the federal government or recalls on behalf of manufacturers to promote public health, safety and welfare.

A requirement that any person receiving the information under (1), (2), or (3) would hold the state and any agency thereof harmless from all claims for improper use or release of such information has been included.

Your Committee has further amended the bill by making nonsubstantive changes for the purpose of clarity and conformance with recommended drafting style.

Your Committee believes this bill will allow reasonable access to information contained in the statewide traffic records system and simultaneously protect the privacy rights of individuals whose names appear in the records. The director of transportation is provided discretion in the releasing of information upon compliance with certain enumerated conditions to prevent abuse of information.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1247, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1247, S.D. 1, H.D. 1, C.D. 1.

Senators Uwaine, Yamasaki and Soares
Managers on the part of the Senate

Senator Soares did not sign the report.

Representatives Taniguchi, Shito, Honda, Kim and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 63 on S.B. No. 1062

The purpose of this bill is to provide for the development of high technology enterprises in Hawaii in order to demonstrate Hawaii's commitment to these

enterprises:

- (1) By creating a high technology development corporation, assigned to the Department of Planning and Economic Development for administrative purposes, which would have the authority to develop industrial parks for the location of high technology enterprises and to assist in the construction of facilities for such enterprises through the issuance of special purpose revenue bonds, and which would have a governing board composed of public officials and members of the general public who have proven expertise in fields that can assist in the development of high technology enterprise in Hawaii;
- (2) By creating a Pacific International Center for High Technology Research, attached to the University of Hawaii, which would assist the corporation in its efforts; promote educational, scientific, technological, and literary pursuits in high technology; and provide support for the high technology industry in Hawaii by undertaking a number of educational, training, and other activities involving the United States and other nations;
- (3) By establishing a special fund from which the development corporation would be authorized to expend future appropriations or contributions from non-state sources, and which may be used as matching funds under agreements with any state, county, or other organization; and
- (4) By providing appropriations for fiscal year 1983-1984 for both the development corporation and the Pacific International Center for High Technology Research.

Your Committee finds that the development of high technology industries in Hawaii is most desirable as a means of diversifying our economy, of creating additional employment opportunities for Hawaii's people, and increasing personal income. Establishment of a public corporation to provide the appropriate infrastructure for the development of this industry and an institute in Hawaii to create opportunities for the international interchange of scientific and technological expertise and knowledge are highly desirable and innovative mechanisms to attract high technology firms to Hawaii.

Your Committee has amended the bill as follows:

- (1) By deleting the requirement that four of the appointed members of the Board of Directors shall be private individuals, one from each county, in order to allow the Governor greater leeway in selecting the most qualified personnel;
- (2) By raising the appropriation for the High Technology Development Corporation from \$1 to \$100,000 for fiscal year 1983-1984; and
- (3) By raising the appropriation for the Pacific International Center for High Technology Research from \$1 to \$25,000 for fiscal year 1983-1984.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee is aware that creation of the new Pacific International Center for High Technology Research would require the University of Hawaii to find a suitable site for the Center. Your Committee is in agreement that Kahi O Mohala, the former Marks Estate site, would be a perfect location for the Center. Your Committee strongly urges the Administration to take appropriate action to establish the international center at that location.

Your Committee on Conference is in accord with the intent and purpose of S.B. No 1062, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1062, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Aki and Soares
Managers on the part of the Senate

Representatives Say, Kiyabu, Bunda, Hashimoto, Kawakami, Menor and Dang.
Managers on the part of the House

Conf. Com. Rep. No. 64 on S.B. No. 834

The purpose of this bill is to establish a state-funded job training program for dislocated workers under the federal Job Training Partnership Act (JTPA) of 1982.

This bill establishes a dislocated workers program to assist individuals, such as those who have lost or will lose their jobs because of company closure, to obtain other employment through a variety of services, including training, job search assistance, and relocation assistance.

Under the JTPA, states are required to match federal funds, dollar for dollar, through non-federal contributions. The program and funding provided by this bill fulfills this requirement and would allow the State to receive federal funds to establish a program for its dislocated workers.

Your Committee has deleted the appropriation from the bill and funded the program through the General Appropriations Act.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 834, S.D. 1, H.D. 2, as amended herein, and recommend it pass Final Reading in the form attached hereto as S.B. No. 834, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Tungpalan, Kiyabu, Graulty, Honda, Kawakami, Levin,
Yoshimura and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 65 on S.B. No. 4

The purpose of this bill is to provide appropriations for specific capital improvement projects throughout the state.

Your Committee has agreed to provide appropriations for specific capital improvement projects throughout the state. Your Committee believes that the projects contained herein reflect the legislature's continued commitment to projects which reflect the needs and desires of the people of the state.

Your Committee believes that this bill will assist the State in meeting those public purposes through additional capital improvements.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 4, S.D. 1, H.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as S.B. No. 4, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, B. Kobayashi, Aki, Chang, Hagino, Holt, Machida,
Mizuguchi, Solomon, Uwaine, Young, Ajifu, Henderson and Soares
Managers on the part of the Senate

Representatives Kiyabu, Kawakami, Bunda, Chun, Crozier, Graulty, Levin
Morgado, Nakata, Souki, Tam, Wong, Yoshimura, Anderson and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 66 on H.B. No. 1434

The purpose of this bill is to seek the return of borrowed public library materials on a timely basis and to assess a nominal penalty to borrowers if library materials are not returned one day past the due date.

Presently, a person who wilfully and knowingly detains any library material for seven days after the mailing date of a written notification is subject to a nominal charge set by the State Board of Education. Your Committee finds that the present provisions for assessing charges are impractical because it is difficult to prove that a person "wilfully and knowingly" failed to return borrowed library materials. Also, the requirement for written notice causes excess paperwork for the libraries' limited staff. This bill helps to alleviate these problems by deleting the words "wilful" and the words "wilfully and knowingly" from Section 312-3.5, Hawaii Revised Statutes, and imposing a charge if the borrowed materials are not returned one day after the due date.

Your Committee on Conference, upon further consideration, has amended H.B. No. 1434, H.D. 1, S.D. 1, by deleting lines 8 through 21 on page 2. The paragraph deleted addressed the responsibilities of minors and parents or guardians of minors when library materials are overdue. Your Committee on Conference feels that this area of concern should be addressed by the State Board of Education when it implements the assessment of library fines.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1434, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1434, H.D. 1, S.D. 1, C.D. 1.

Senators Solomon, Mizuguchi and Ajifu
Managers on the part of the Senate

Representatives Hashimoto, Hee, Menor, Nakasato, Say and Dang
Managers on the part of the House

Conf. Com. Rep. No. 67 on S.B. No. 994

The purpose of this bill is to authorize the department of health to make a loan to Molokai General Hospital.

Currently, Molokai General Hospital faces a substantial negative cash flow and additional liabilities in loans, trade, and other payables, some of which date back to June 1982. A loan from the State, through the department of health, would help to solve Molokai General Hospital's current debt problem and allow the hospital to continue to provide needed health services to the residents of Molokai.

The sum appropriated may be used for fiscal years 1982-1983 and 1983-1984 to allow processing of the loan and payment of some of the hospital's debts before July 1, 1983.

Your Committee upon further consideration has amended S.B. No. 994, S.D. 1, H.D. 1, by increasing the amount of the appropriation to \$250,000.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 994, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 994, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Kiyabu, Chun, Kawakami and Morgado
Managers on the part of the House

Conf. Com. Rep. No. 68 on S.B. No. 937

The purpose of this bill is to implement the constitutional mandate to provide a tax refund or tax credit when, under certain conditions, there is a balance in the state general fund.

Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide for a tax refund or tax credit to the taxpayers of the State whenever the state general fund balance at the close of each of two successive fiscal years exceeds five per cent of general fund revenues for each of the two fiscal years. Since these factors have been met for the third year in a row, this bill is necessary to satisfy the constitutional mandate.

This bill provides for a general income tax credit of \$1 in addition to any other credit allowed under the Hawaii income tax law. This \$1 credit is to be multiplied by the number of qualified exemptions; provided that the qualified exemption has been a resident of the State for at least nine months. Multiple exemptions because of age, for deficiencies in vision, hearing, or other disability are not allowed.

The credit is not available to any person convicted of a felony and committed to prison for the full taxable year; to any person committed to a youth correctional facility for the full taxable year; or to any misdemeanor committed to jail for the full taxable year.

Your Committee has amended this bill by making two grammatical changes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 937, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 937, S.D. 1, H.D. 1, C.D. 1.

Senators Yamasaki, Aki, Chang, Hagino, Holt, B. Kobayashi, Machida,
Mizuguchi, Solomon, Uwaine, Young, Ajifu, Henderson and Soares
Managers on the part of the Senate

Representatives Kiyabu, Bunda, Chun, Crozier, Graulty, Kawakami, Levin, Morgado, Nakata, Souki, Tam, Wong, Yoshimura, Anderson and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 69 on H.B. No. 1

The purpose of this bill is to provide appropriations for the fiscal biennium, 1983 to 1985.

In formulating this bill and others which affect state finances, your Committee was faced with the difficult task of attempting to meet a multitude of competing demands with severely limited resources and an uncertain and somewhat somber revenue picture.

The Executive Budget received by the Legislature over three months ago was originally based on certain revenue assumptions which are no longer valid. Consequently, the Executive Branch has indicated that spending restrictions will be applied to the 1983-85 biennium to ensure that expenditures remain within the limits of available resources.

While your Committee concurs that the current revenue forecast is not on a par with original estimates, available indications suggest that an improvement in the economy and a subsequent revenue upturn may be forthcoming. These indications include: the State's unemployment rate which remains one of the lowest in the nation; information from the Department of Planning and Economic Development which indicates a modest recovery in the State's economy; and renewed activity in the previously sluggish tourist industry.

With these indicators of at least a modest economic upturn in mind, your Committee's overall approach to the budget and other measures having financial implications has been one of caution tempered with measured optimism regarding the status of future revenue collections. Consequently, this budget reflects your Committee's attempt, despite dwindling revenues, to maintain all of the essential services provided by State government.

The remainder of this report summarizes by major program areas some of the budgetary decisions made by your Committee, and where appropriate, expresses program concerns and direction.

Economic Development

Tourism, the mainstay of the State's economy and a major source of jobs and income for Hawaii's people, experienced a slight upturn in 1982 and a favorable outlook is maintained for 1983. However, rising air fares and increased competition from other visitor destination areas continue to raise legitimate concerns over the prospect of a renewed decline in the number of visitors to Hawaii and the impact such a decline would have on the overall economy of the State.

To address these concerns, your Committee has provided increased funding to encourage the continued growth of this major industry. Funding for a contract with the Hawaii Visitors Bureau has been increased, and funds have also been provided for the promotion of tourists from Asia, particularly Japan, which represents a key segment of the tourist market that traditionally contributes heavily to Hawaii's economy. To increase our children's awareness of the positive aspects of tourism, funds have been provided for production of a film on the educational benefits of tourism by the Visitor Industry Education Council.

In consideration of Act 89, SLH 1982, which transferred the responsibility for agricultural product promotion from the Department of Planning and Economic Development to the Department of Agriculture, funding has been continued at the same level as the current fiscal year for this important function.

Also, in view of the effectiveness and support received for the Hawaiian fresh pineapple 1982 promotion, your Committee has continued funding for this program. Unlike the current fiscal year, however, promotional activities will not be limited to the western regions of the mainland United States and Canada. Your Committee believes that extension of the fresh pineapple campaign throughout the United States and Canada will produce even greater results in increasing consumer interest in and demand for Hawaiian fresh pineapples as well as in improving the stability of this major agricultural industry in Hawaii.

Employment

In September 1982 the Comprehensive Employment and Training Act of 1973 (CETA) expired and consequently resulted in reduced services for employment training. However, permanent legislation known as the Job Training Partnership Act of 1982 (JTPA) has been passed by Congress, and "block granting" of funds to states will occur. It is expected that in October 1983 the federal government will delineate program responsibilities and identify funds to be granted. Consequently, changes in organization, operations, and the availability of funds appear probable at that time.

Your Committee is aware that JTPA may have significant impact in the employment program area and requests that the State Department of Labor & Industrial Relations keep abreast of any changes resulting from JTPA to minimize the effects of any federal funding reductions. It is your Committee's intent to reexamine the employment program during the supplemental year to make any necessary reductions resulting from changed program responsibilities or availability of federal funding.

Transportation

After careful consideration of all facets of the issue relating to the need for and the site of a general aviation airport, your Committee has decided to delete funds for a general aviation airfield on Oahu. Your Committee believes that any further action on a general aviation airport should be withheld pending release of the federal government report on the joint use of military airfields. Any alternative which might be offered by the federal government should be fully explored prior to committing funds for the costly construction of a new reliever airport.

Environmental Protection

In recognition of the immediate need to assess the impact of chemicals, pesticides, non-ionizing radiation, and various forms of pollution on humans, animals, and our environment, your Committee has provided funds to contract for necessary environmental toxicologist services.

Health

In September 1982, the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 was signed into law by President Reagan. One feature of this Act reduced Medicaid/Medicare reimbursements to hospitals in an effort to contain medical care costs.

The impact of TEFRA on the County/State Hospital System was projected to result in a revenue shortfall of approximately \$6 million for each year of the 1983-85 biennium.

Shortly before your Committee reviewed budgetary differences, it was learned that this aspect of TEFRA would probably be deferred for one year. In light of TEFRA, the Committee feels the granting of additional positions for the County/State Hospital System in a time of fiscal uncertainty is not in the best interests of the State of Hawaii; therefore, your Committee has embraced the policy that no new positions be allocated to the hospitals except those identified as revenue producing, and where workload clearly justified the granting of position requests.

With the elimination of new positions accounting for the major portion of the reduction, your Committee has reduced the County/State Hospital's budget by approximately \$2 million in each year of the biennium.

The Committee finds that there also appears a need to review and analyze manpower requirements throughout the entire hospital system. Comparisons of existing staffing patterns with workload data reveal significant and at times flagrant inconsistencies. While such superficial analysis can be very misleading and not reflect unique situations, it does point out the need to perform manpower studies and the need to develop staffing standards before any more permanent positions are granted.

It is the Committee's hope that the one year delay before TEFRA is implemented will provide the hospitals sufficient time to effect the cost containment measures needed to respond to TEFRA without reducing the quality of patient care.

This session, more than ever before, the legislative committees have been deluged with requests for funding by private organizations. The causes of this situation include: the cutback in federal funds; the lack of budgetary constraints resulting

in departments recommending higher levels of funding for private organizations than could be accommodated in the executive budget; and the generally haphazard implementation of Chapter 42, the statute on grants, subsidies, and purchases of service. These factors, in addition to severely limited resources, have resulted in legislative committees having to make exceedingly difficult decisions regarding the funding of programs.

Your Committee believes, as the law intends, that the primary responsibility for evaluating the purchases of service requests of private agencies rests with the executive agencies. They are in the best position to review these requests and to determine the cost effectiveness of the program and whether it, in fact, meets a public purpose. By holding the executive agency responsible for the selection of the appropriate provider and the expenditure of public funds by the provider, program accountability would be enhanced.

Consequently, in the case of purchases of service for mental health and substance abuse programs, your Committee has provided a lump sum appropriation of \$1,608,963. This amount is to be used for purchases of service for the community-based services for the mental health program (HTH 401). The Department of Health has the authority to select and fund those private organizations which can best achieve the program's objectives. The granting of this lump sum authority, however, does not relieve the department from complying with existing statutory requirements concerning the use of these funds by private organizations.

Your Committee believes that if lump sum authority for purchases of service can be responsibly and effectively exercised by executive agencies, this would relieve the Legislature of having to make individual decisions on the various purchase of service requests. Legislative attention could then be directed to the other type of funding over which the Legislature should exercise direct appropriation control, the funding of one-time grants for private organizations.

Your Committee also notes that the Department of Health laboratory continues to provide tests for private physicians, particularly on the neighbor islands, despite the fact that there is no compelling public health justification for these tests. It is your Committee's intent that such tests be discontinued and that the affected parties be notified.

Your Committee recognizes the need to improve conditions at the Hawaii State Hospital, but it also firmly believes that the most cost-effective plan should be selected and implemented. Your Committee has provided design planning funds to cover all design expenses for the biennium. However, it remains the intent of your Committee that these funds be utilized for the most cost-effective arrangement.

Social Services

Although your Committee believes that disadvantaged individuals must be provided essential medical services, it remains concerned about the reduction in Medicaid funds due to reduced federal funding assistance and the limited availability of State financial resources. The state and federal governments should not be expected to finance unchecked increases in the cost of providing this medical care. Several means have already been examined to address this issue and your Committee holds firmly that the active participation of both providers and recipients is essential for the success of any Medicaid cost containment attempt.

Your Committee has provided additional funding for this program in FY 1983-84, but it is also requiring that payments to non-institutional medical care practitioners be reduced by ten per cent. It is the intent of the Legislature that this additional funding be provided to the Department of Social Services and Housing to allow it sufficient time during the interim to examine and implement such cost containment strategies as rateable reductions in medical care payments and co-payments by recipients. These or other alternative mechanisms are expected to allow the department to effect fiscal reductions without adversely affecting the department's responsibility to provide medical assistance to the needy.

To explore alternatives to the high cost of institutionalization, your Committee has provided additional funds for a nursing home without walls demonstration project to provide extended home care services.

Funds have also been included to develop a computerized eligibility determination system for the various assistance programs. It is expected that computerization will enable the Department of Social Services to be more efficient in reducing eligibility

determination and redetermination errors and assist in preventing and detecting fraud and abuse.

Lower Education

Hawaiians studies program.

In keeping with the mandate of Article X, Section 4, of the Hawaii State Constitution, which requires a Hawaiian education program in the public schools, your Committee has funded the expansion request for this program. It is intended that such funding will assist students in understanding Hawaii's cultural heritage, as noted in the State Education Plan. Furthermore, your Committee has added a proviso which directs the Department of Education to evaluate the program in the manner suggested by the Legislative Auditor in 1983. Only by evaluating past and present efforts can the department be assured that the program will achieve all that its proponents hope that it will.

Computers in education.

The thrust of modern technology has affected not only those involved with the hard sciences and industrial production but has invaded all facets of daily living for all people. Nowhere is this fact more evident than with the advent of the microchip and the rise of high-technology industries.

Cognizant of the fact that our children must be prepared for these technological developments, your Committee has taken steps to ensure that there will be a comprehensive computer training program in our public schools. Your Committee, concerned that the immediate needs of our graduating seniors are not being adequately addressed, has provided funding for the Exploratory Computer Awareness Interim Program (ECAIP). Additionally, staff to implement this program has been provided. One state educational specialist position has been authorized to develop, implement, and coordinate the program. Also, seven and a half district resource teacher positions (the extra half-position will be assigned to Honolulu) have been created to provide direct services to students, teachers, and parents.

The intent of ECAIP is to initiate an introductory computer literacy course, beginning in the fall of 1983, for all seniors in public high schools throughout the State. One of the objectives of the ECAIP is to offer hands-on computer education to graduating seniors who increasingly must utilize computers in the work world and in post-secondary educational institutions.

Your Committee believes that by utilizing the ECAIP, the department will be afforded sufficient time to properly address the need for an acceptable master plan for computers and their use in instruction throughout all grade levels. It is your Committee's intent that the ECAIP represents an interim program that will be terminated when the department's master plan for computers in instruction is completed and ready for implementation.

Finally, your Committee has provided additional resources for the computer support system for school operations. The computer system will store, process, and retrieve information for such functions as grade reporting, student course scheduling, testing, attendance reporting, and gathering student accounting data.

Exceptional children.

As required by the provisions of Public Law 94-142, the expansion request for Summer School for the Handicapped has been funded. Your Committee recognizes the needs of students whose handicaps place them at a disadvantage and the benefits such a program can afford them.

Students of limited english proficiency.

Your Committee remains concerned about the needs of students of limited English proficiency. Presently, the program offered by the department is not in compliance with the United States Office of Civil Rights. Funds have been provided to move Hawaii's program closer to full compliance.

Repair and maintenance.

Your Committee has provided \$1,000,000 in each fiscal year of the biennium for the repair and maintenance of public school facilities. The funds are intended to

ameliorate the effects of the impoverished state of the repair and maintenance account for all state facilities.

Public libraries.

Your Committee has provided for the conversion of seven federally funded positions for the public libraries. The conversion of these positions represents a departure from policy; however, these positions are critical to the successful completion of the library system's automation project.

Higher Education

In view of the State's bleak economic outlook for the foreseeable future, the University of Hawaii will be faced with the difficult task of preserving its quality and diversity of postsecondary educational programs with less funding support from the Legislature. In spite of this, however, your Committee feels that the availability and accessibility of higher education opportunities to the residents of the State are vital and necessary. Within the limits of the Legislature's ability to provide funds for this program, your Committee has placed particular emphasis on the following areas:

Library Automation. Funds have been provided for the continuation of the library automation process in order for the University of Hawaii at Manoa to keep pace with other major research libraries at comparable institutions of higher education.

Computer Consortium. Funds have been provided to complete the full integration of all campuses in a systemwide computer consortium which will greatly improve the University's electronic computing and data processing capabilities in academic, administrative, and student services.

Other areas in which your Committee has provided support to correct deficiencies are in the maintenance of new facilities, energy conservation, basic biological research, word processing and computer technology, and ethno-cultural history.

Culture and Recreation

Your Committee, cognizant of the importance of public access to state lands and the maintenance of state recreational areas, has provided funds for the upkeep and cleaning of state forest reserve trails.

With respect to Aloha Stadium, the State's major spectator sport facility, your Committee has funded a master plan to analyze the market potential for stadium events in Honolulu; to determine the optimum size, configuration, and usage of surrounding grounds; to identify and develop plans for improvements that were omitted or inadequately sized in the initial plans; and to develop a program to generate adequate revenues to make the stadium self-supporting.

Public Safety

Your Committee remains seriously concerned about the over-crowded conditions at the Oahu and Maui community correctional facilities. Additional funds and positions have been provided to relieve the overcrowded conditions. However, your Committee believes that additional staffing alone is not and should not be considered a viable long-term solution to relieve the problem of overcrowding at these facilities.

More importantly, your Committee recognizes the need for an effective means to address the long-term problem of inmate reform and overcrowded conditions at correctional facilities. Adding more staff and building additional facilities are not seen as the remedies to the problem. Discussion has focused upon the differing ideologies of rehabilitation versus punishment. While no consensus has been reached, it is crucial that discussion continue to identify the root of the problem(s) and steps be taken to develop plans and strategies that will serve to resolve the problem(s) in a cost effective manner.

Individual Rights

Your Committee has deleted second-year funding for the Commission on the Status of Women. There is some concern that the work of this Commission duplicates that of other agencies, such as the Office of Affirmative Action's equal employment opportunity efforts. The services provided to women by the Commission remain unclear, and special attention for women by a separate commission no longer appears

warranted. The women's rights movement has made tremendous gains within the last few years and women have gained substantial parity with their male counterparts in major areas. It would seem more appropriate for the Commission to merge its functions with another existing agency such as the Office of Affirmative Action rather than to maintain women as a group requiring special attention and services. In this regard, your Committee is of the belief that the Commission should make every effort to have its functions assumed by another state agency.

Contingent upon the enactment of Senate Bill No. 555, fees will be increased for: the processing of certificates of compliance; the registration of trademarks, labels, or prints; the filing of corporations, legal processes or notices; and copies. Such fee increases are necessary to recover the cost of services rendered. Many of the fees have not been raised since these services were first established.

Your Committee, recognizing the increased workload of the Business Registration Division in the Department of Commerce and Consumer Affairs, has provided funds to hire additional personnel.

Government-Wide Support

Communications.

Deregulation has become a major issue in recent years and has resulted in the availability of more advantageous telecommunication systems. Consequently, your Committee has included funds for consultant services and network design for the development of a centralized, state-owned telephone system set for installation in fiscal year 1984-85. Furthermore, as Kauai is the only county excluded from the jointly-administered, state-federal microwave communications system linking Oahu, Hawaii, and Maui funds have been provided to include Kauai in the toll-free microwave system during fiscal year 1983-84. By advancing the microwave project to fiscal year 1983-84, the state-owned paging system has been delayed to the last year of the biennium.

Computerization.

With the Hawaii/FAMIS System scheduled for implementation on July 1, 1983, your Committee has agreed to fund implementation of other important computerized systems. Funds have been included in the budget to provide additional systems and programming support for a new bond fund system with a specialized information base for all bond-funded appropriations (Bond Fund System); a new facilities inventory management system to provide a method to capture, record, and maintain historical facility information to determine preventive maintenance schedules (Facilities Inventory Management System); and an energy management system which will fully automate energy usage by providing centralized controls (Energy Management System).

Personnel services.

The development of a computer-assisted Applicant Information System for the Department of Personnel Services will be funded to facilitate the management of large volumes of applicant information and to produce timely up-to-date eligibility lists. Within the proposed system, the certification process has been identified as the initial activity for computerization, and funds have been provided for the acquisition of electronic data processing equipment, supplies, and rental terminals to implement the certification process.

Custodial services.

With the establishment of the new Circuit Court and new District Court buildings, your Committee has had to address the issue of custodial jurisdiction. A decision has been made to transfer all custodial and groundskeeping responsibilities for the new courts to the Judiciary. The Department of Accounting and General Services will continue to maintain responsibility for all outer island State facilities which house the courts and offices of the Judiciary.

Grants-in-Aid

After careful and deliberate consideration, your Committee has decided that private organizations seeking grant-in-aid funding should be funded at current fiscal year 1982-83 levels. As mentioned earlier, it is your Committee's hope and intent that eventually grants-in-aid will encompass only requests for one-time grants by private organizations and that ongoing services provided by private agencies will be handled

through purchase of service agreements.

Recommendation

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

Senators Yamasaki, Aki, Chang, Hagino, Holt, B. Kobayashi, Machida, Mizuguchi, Solomon, Uwayne, Young and Ajifu
Managers on the part of the Senate

Representatives Kiyabu, Bunda, Chun, Crozier, Graulty, Levin, Kawakami, Morgado, Nakata, Souki, Tam, Wong, Yoshimura, Anderson and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 70 on S.B. No. 1279

The purpose of this bill is to merge the Environmental Quality Commission and the Environmental Council and realign their functions with the Office of Environmental Quality Control. This bill will consolidate the fragmented functions of these groups and will streamline the evaluation and review of environmental impact statements.

This bill will require the director of the Office of Environmental Quality Control to be an ex-officio voting member of the Environmental Council. The director will be exempt from the representation requirements and staggered term of membership restrictions placed on other members of the council. This bill also clarifies that the director need not be the chairperson of the council.

Your Committee upon further consideration has amended the bill to clarify that the Environmental Council chairperson or the director of the Office of Environmental Quality Control, upon notifying the Council chairperson, will call for meetings of the Council.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1279, S.D. 2, H.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1279, S.D. 2, H.D. 2, C.D. 2.

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

Representatives Okamura, Say, Crozier, Kawakami, Kiyabu, Kiyabu-Saballa, Nakata and Dang
Managers on the part of the House

Conf. Com. Rep. No. 71 on H.B. No. 387

The purpose of this bill is to appropriate funds to the Judiciary for the 1983-85 fiscal biennium.

Your Committee concurs with the overall approach of previous drafts of this bill which recognized that the spending ceiling prescribed in Section 37-92, Hawaii Revised Statutes, would severely limit the Judiciary's ability to respond effectively to the enormous growth in case filings. The ceiling is restrictive because the Judiciary budget has had to accommodate the cost of recent transfers of responsibilities from other government agencies and the implementation of new laws and other legislative directives.

This bill has been amended to reflect your Committee's determination of the needs of the Judiciary to operate effectively and efficiently. Where programs are directly related to resolving congestion, delay, and backlogs, they have been authorized as requested; where they seem to be accomplishing their objectives but are only indirectly related to judicial services, they have been deferred to the second year of the biennium and, in many instances, to the 1985-87 biennium; where there are uncertainties as to their effectiveness, they have been held to current levels or eliminated entirely; where funds were previously earmarked for utility expenses for Kauikeaouli Hale and Kaahumanu Hale, they have been deleted because such expenses will be paid from an appropriation to the Department of Accounting and General Services in H.B. No. 1, H.D. 1, S.D. 1, C.D. 1; and in very limited circumstances, some new programs are authorized to proceed because of their vast benefit potential. One

such program is the plan to speed payments to vendors through a new Judiciary check issuance system as authorized in Section 40-51, Hawaii Revised Statutes; another is the renovation of the Kapuwa Building to centralize and house Judiciary programs that are presently occupying private office space. The Department of Accounting and General Services is directed to assist the Judiciary in both efforts. This overall approach to the Judiciary budget acknowledges the fiscal constraints facing the State, yet recognizes that the primary forces which have had impact on the budget are forces outside the control of the Judiciary.

A total of \$35,301,607 and \$36,911,890 in general funds is provided for FY 1983-84 and FY 1984-85, respectively. In addition 11 capital improvement projects representing \$11,933,000 in general obligation bond funds have been provided for the 1983-85 fiscal biennium.

Your Committee has provided the Judiciary with funds and positions to continue to improve its capability to perform relevant and sophisticated program analysis and evaluation of performance, and to actively implement planning at all levels of management in the Judiciary. This in essence will form the basis for assisting Judiciary management, and the Legislature as well, in making sound decisions.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 387, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 387, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Kiyabu, Bunda, Chun, Crozier, Graulty, Levin, Kawakami,
Morgado, Nakata, Souki, Tam, Wong, Yoshimura, Anderson and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 72 on H.B. No. 45

The purpose of this bill is to appropriate funds for research necessary to keep the Hawaiian sugar industry economically viable.

Your Committee finds that the \$3 million appropriated by the Legislature in 1982 for sugar research has greatly assisted the sugar industry in minimizing its losses by offsetting the direct costs of research. Your Committee's intent is to provide funds for continuing this vital research.

Your Committee upon further consideration finds that funds for continued support for sugar research and development should not be contingent upon passage of S.B. No. 1464 and has, therefore, amended this bill accordingly.

Your Committee has also amended this bill by changing the amount appropriated from \$2,070,000 to \$2,000,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 45, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 45, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Hagino and Ajifu
Managers on the part of the Senate

Representatives Takamine, Kiyabu, Bunda, Kawakami, Kiyabu-Saballa, Menor,
Nakata, Okamura, Say, Souki and Isbell
Managers on the part of the House

Representative Menor did not sign the report.

Conf. Com. Rep. No. 73 on H.B. No. 1190

The purpose of this bill is to appropriate funds for emergency loan relief to qualified farmers as defined under section 155-1(2), Hawaii Revised Statutes.

The Agricultural Loan Program is in need of additional funds. Recently, it has had to provide emergency loans to Oahu dairies because of heptachlor contamination in fresh milk and Kauai papaya farmers for phytophthora disease when the FmHA was unable to assist these farmers. The extent of recent additional losses to farmers make it imperative that financial aid be provided expeditiously.

Your Committee upon further consideration has amended this bill by changing the amount appropriated from \$2 to \$500,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1190, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1190, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Hagino and Ajifu
Managers on the part of the Senate

Representatives Takamine, Kiyabu, Crozier, Kawakami, Matsuura, Souki and
Dang
Managers on the part of the House

Conf. Com. Rep. No. 74 on H.B. No. 670

The purpose of this bill is to provide emergency financial assistance to the county of Kauai.

The damage that Hurricane Iwa inflicted on the island of Kauai was extensive. Based on damage claims submitted by individual agencies to the Federal Emergency Management Agency (FEMA), the estimated replacement value of losses to county property on Kauai is approximately \$6 million. FEMA will pay for 75 per cent of the cost of replacing damaged and destroyed property, and the county is required to put up the remaining 25 per cent.

According to federal regulations, all repair work must be completed within 18 months of the disaster. Therefore, Kauai must act expeditiously to ensure completion of all repair and reconstruction.

Your Committee finds that the county is not in a position to meet its share of the cost because of severely reduced revenues caused by Hurricane Iwa. Your Committee agrees that the State has a responsibility in this extraordinary situation to furnish immediate emergency assistance to the county of Kauai.

Your Committee has amended this bill to authorize an appropriation of \$1,500,000 to provide assistance to the county of Kauai.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 670, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 670, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Hagino and George
Managers on the part of the Senate

Representatives Kiyabu, Kawakami, Morgado, Yoshimura and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 75 on H.B. No. 5

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in the General Appropriations Act of 1983, the Judiciary Appropriations Act of 1983, and the Capital Improvement Projects Act of 1983.

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

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

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

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

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 5, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 5, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, B. Kobayashi, Mizuguchi and Ajifu
Managers on the part of the Senate

Representatives Kiyabu, Bunda, Chun, Crozier, Gaulty, Levin, Kawakami,
Morgado, Nakata, Souki, Tam, Wong, Yoshimura, Anderson and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 76 on H.B. No. 236

The purpose of this bill is to clarify and correct inconsistencies in Sections 213 and 255, Hawaiian Homes Commission Act, 1920, as amended, relating to funds for deposit earned through investments. In addition, the bill raises the ceiling on the Hawaiian home loan fund from \$5,000,000 to \$10,000,000. This fund receives 30 per cent of sugar cane lease and water license receipts until the legal limit is reached.

Section 213(b) of the present law does not permit interest money earned through investment from the borrowed money fund and the Hawaiian home loan fund to be deposited in the Hawaiian loan interest fund. At the same time, Section 255(a) is contradictory in that interest, with the exception of interest earned in the Hawaiian homes administration account and the native Hawaiian rehabilitation fund account, is required to be deposited in the Hawaiian home interest fund.

H.B. No. 236, S.D. 2, allows moneys from the borrowed money fund and the Hawaiian home loan fund to be deposited in the Hawaiian loan interest fund. Such action will more clearly identify the funds for deposit of interest money earned through investments. Moreover, the bill calls for amendment of the title of the Hawaiian loan interest fund to the "Hawaiian home interest fund".

Your Committee agrees with the clarification mentioned above -- in fact, it was also proposed by the State administration.

Your Committee, however, is of the opinion that raising the ceiling on the Hawaiian home loan fund would, in effect, mean that there will be a corresponding loss in revenues deposited into the general fund. A \$5,000,000 gain in the home loan fund and the resulting general fund loss will be implemented incrementally over approximately ten years (about \$500,000 a year). In view of the current financial situation, the deliberate reduction of revenues would not be prudent. Your Committee is of the opinion that more home loan moneys are needed but must be deferred until a later date. The pertinent amendments, on page 2 of the bill, have been made.

The net effect of the amendment is to revert back to the original version of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 236, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 236, S.D. 2, C.D. 1.

Senators Yamasaki, Solomon, Young and Ajifu
Managers on the part of the Senate

Representatives Say, Bunda, Kawakami, Takamine and Dang
Managers on the part of the House

Representative Bunda did not sign the report.

Conf. Com. Rep. No. 77 on H.B. No. 225

The purpose of this bill is to change the interest rate ceiling on general obligation bonds of the State. This bill provides for the elimination of the statutory interest rate limitation under section 39-5, Hawaii Revised Statutes, and makes the effective date July 1, 1983.

Act 245, Session Laws of Hawaii 1980, established the maximum interest rate which may be paid on general obligation bonds issues by the State at 9-1/2%. The rate was

temporarily raised to 12% by Act 18, First Special Session Laws of Hawaii 1981, and to 14% by Act 71, Session Laws of Hawaii 1982. This rate is effective through June 30, 1983, at which time it will revert to 9-1/2%.

On March 24, 1982, the State attempted to issue \$75 million in general obligation bonds, series AT, but received no bids because of conditions in the municipal bond market and the 12% statutory interest rate ceiling in effect at the time. The bond buyer's 20-bond index of general obligation bonds at that time was 13.04%. In the period from March 31, 1982, to May 13, 1982, after the interest rate ceiling had reverted to 9-1/2%, the State was effectively shut out of the municipal bond market. During this period the 20-bond index fluctuated from a low of 11.82% to a high of 13.13%. The series AT bonds were finally sold on June 17, 1982, at an interest cost of 12.22% but only after the ceiling was raised to 14% on May 14, 1982.

While there have been periods of improvement in tax-exempt interest rates, the underlying causes of high interest rates still remain. Uncertainty as to the size of the national deficit and the large volume of private purpose revenue bonds being marketed continues to exert strong pressure on interest rates. Also, a change in the federal tax laws which will require financial institutions to reduce by 15% the amount of the otherwise-allowable interest expense deduction on debt, including deposits, deemed to be used to purchase or carry tax-exempt obligations acquired after December 31, 1982, is certain to dampen interest in investment in tax-exempt bonds by financial institutions.

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

Your Committee has amended this bill in its entirety to keep the interest rate temporarily at 14%, but to limit the effect of such ceiling until June 30, 1985, after which the statutory rate of 9-1/2% shall apply.

Your Committee believes that the two-year extension of the limit is in accord with the state's policy of biennium budgeting.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 225, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 225, H.D. 1, S.D. 1, C.D. 1.

Senators Yamasaki, B. Kobayashi and Ajifu
Managers on the part of the Senate

Representatives Kiyabu, Bunda, Chun, Crozier, Gaulty, Levin, Kawakami,
Morgado, Nakata, Souki, Tam, Wong, Yoshimura, Anderson and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 78 on H.B. No. 702

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

Your Committee has reviewed OHA's general fund budget request for the fiscal biennium 1983-85 and was faced with three major areas of concern:

(1) The funding of OHA's budget request by lump sum funding approach versus program appropriations. Your Committee has followed, as have past committees, a lump sum approach to OHA's request. This should provide OHA with the needed flexibility to execute its various responsibilities. Your Committee encourages OHA to pursue a viable program appropriation budget in the future to allow accurate and expedient review.

(2) The matching of general fund appropriations and OHA trust fund receipts in the payment of administrative and fringe benefit costs. Your Committee has found that past and current OHA budgets have used general funds to pay for a majority of administrative and fringe benefit expenses. Your Committee feels that fringe benefit costs, like administrative costs, should be shared equally between the general fund and OHA's ceded land monies. This bill therefore ensures that fringe benefit expenses are shared equally between the State of Hawaii and the Office of Hawaiian

Affairs.

(3) The lack of a clear, viable plan for the accounting of funds between Hawaiian and Native Hawaiian programs within OHA. Considerable concern has been raised over the use and co-mingling of funds within OHA in the attempt of the Office to accurately address the concerns of their varied beneficiaries. Your Committee feels OHA should devise a plan to handle this mixing of funds to enable its programs to grow as funds are available. This financial plan should be incorporated into a budget by program appropriation, so that program costs can be categorized and reviewed like other state agencies. The budget should accurately display accounting functions within the Office, distinguishing between program areas, administrative allocation, and types of fund utilized. This bill therefore provides that OHA assemble a workable financial plan and budget which can be utilized to efficiently delineate between types of funding, allocations and use. This plan and budget should address the concerns raised over the use of general fund monies and ceded land revenues within OHA.

The funds appropriated by this bill are intended to continue general fund support at roughly its current level. Additionally, funds are included for the following two projects:

(1) OHA - Arcata Joint Venture:

General fund moneys (\$12,500) are recommended as the State's share in a joint venture between OHA and Arcata Associates, Inc. The venture will procure government contracts in the area of high technology support services. The State's share of profits, when realized, will be kept on OHA's books as state moneys and is to be used as a credit for the State's share of OHA's operational expenses.

(2) Minority Enterprise Small Business Investment Company (MESBIC):

General fund moneys (\$6,750) are recommended as the State's share in the development of a MESBIC Development Plan for OHA. The plan is to include a time-phased schedule for implementation, capitalization, management requirements, investment strategies, financial projections, and preparations for application. MESBIC is to be a leveraging vehicle and will address the need for long-term equity investment and debt financing to stimulate the growth and expansion of Hawaiian-owned businesses in the State.

Your Committee has amended this bill by setting the bill's appropriation at \$1,087,467, or so much thereof as may be necessary for fiscal biennium 1983-85 to carry out the purposes of the bill, with \$533,412 appropriated for fiscal year 1983-84 and \$554,055 for fiscal year 1984-85.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 702, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 702, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Solomon, Young and Soares
Managers on the part of the Senate

Representatives Kiyabu, Bunda, Chun, Crozier, Grauly, Levin, Kawakami,
Morgado, Nakata, Souki, Tam, Wong, Yoshimura, Anderson and Isbell
Managers on the part of the House

STANDING COMMITTEE REPORTS

SCRep. 1 Legislative Management

Informing the Senate that S.C.R. No. 1 and S.R. Nos. 4 and 5 have been printed and were distributed to the members of the Senate on January 26, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee except Senator George.

SCRep. 2 Legislative Management

Informing the Senate that S.C.R. Nos. 2 to 15, S.R. Nos. 6 and 7, and S.B. Nos. 1 to 242 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 3 (Majority) Government Operations and County Relations on S.R. No. 4

The purpose of this resolutions is to request the Attorney General, the police departments of the various counties, and all other law enforcement officers, beginning February 1, 1983 to refrain from issuing citations for non compliance with laws relating to the use of sun screening devices on motor vehicles, until the legislature enacts applicable enforceable statewide standards.

A moratorium on issuing vehicular citations for the duration of the 1983 legislative session, will provide the legislature with sufficient time to enact acceptable statewide standards for vehicle window tinting products.

Your Committee finds that tinted windows and other sun screening devices on motor vehicles promote energy conservation, enhances rider comfort, and provides medical benefits for people subject to skin problems as a result of exposure to sun and ultra violet rays as well as generating revenues to the State through taxes on businesses which install such devices.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.R. No. 4 and recommends its adoption.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 4 (Majority) Government Operations and County Relations on S.C.R. No. 1

The purpose of this concurrent resolutions is to request the Attorney General, the police departments of the various counties, and all other law enforcement officers, beginning February 1, 1983 to refrain from issuing citations for non compliance with laws relating to the use of sun screening devices on motor vehicles, until the Legislature enacts applicable enforceable statewide standards.

A moratorium on issuing vehicular citations for the duration of the 1983 legislative session, will provide the Legislature with sufficient time to enact acceptable statewide standards for vehicle window tinting products.,

Your Committee finds that tinted windows and other sun screening devices on motor vehicles promote energy conservation, enhances rider comfort, and provides medical benefits for people subject to skin problems as a result of exposure to sun and ultra violet rays as well as generating revenues to the State through taxes on businesses which install such devices.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.C.R. No. 1 and recommends its adoption.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 5 Legislative Management

Informing the Senate that S.C.R. No. 16 and S.B. Nos. 243 to 297 have been

printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 6 Legislative Management

Informing the Senate that S.B. Nos. 298 to 303 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 7 Legislative Management

Informing the Senate that S.B. Nos. 304 to 308 have been printed and were distributed to the members of the Senate on February 1, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 8 Legislative Management

Informing the Senate that Special Committee Report No. 3, S.C.R. Nos. 17 and 18, S.R. No. 8, Stand. Com. Rep. No. 9 and S.B. Nos. 309 to 324 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 9 Ways and Means on H.B. No. 2

The purpose of this bill is to authorize funds for the expenses of the Legislature up to June 30, 1984, and also for the expenses of the legislative support agencies during the 1983-84 fiscal year.

Your Committee has provided the following specific appropriations:

SENATE AND HOUSE OF REPRESENTATIVES

The amount appropriated for the Senate is \$2,250,476 and the amount appropriated to the House of Representatives is \$2,921,541. Your Committee finds that the amounts are necessary to meet operating costs of the Legislature covering such items as equipment, supplies, staff services and other fundamental expenses.

LEGISLATIVE AUDITOR

Your Committee approves the appropriation of \$1,458,038 to meet the basic operating budget of the Office of the Legislative Auditor. The total includes sufficient funds to continue a program included for special studies and other purposes to be jointly determined by the Speaker of the House of Representatives and the President of the Senate.

STATE ETHICS COMMISSION

Your Committee approves the appropriation of \$149,696 to the State Ethics Commission.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves the appropriation of \$1,514,522 for the Legislative Reference Bureau. The total includes \$200,000 for the advisory study commission of water resources which was attached to the Legislative Reference Bureau for administration purposes by Act 170, Session Laws of Hawaii 1982. Funds of \$33,750 are also included for the installation of a new telephone system for the Bureau. The sum appropriated for information systems technical staff costs may be used for the hiring of analysts and programmers, equipment, supplies and other purposes directly related to the efficient operation of the information systems of the Legislative Reference Bureau.

OMBUDSMAN

Your Committee approves the appropriation of \$359,214 for the Office of the Ombudsman.

LAPSE OF FUNDS

Appropriations under this bill are subject to lapse as of June 30, 1984.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 10 Legislative Management

Informing the Senate that S.B. Nos. 325 to 388 have been printed and were distributed to the members of the Senate on February 3, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 11 Legislative Management

Informing the Senate that S.B. No. 389 to 396 have been printed and were distributed to the members of the Senate on February 4, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 12 Legislative Management

Informing the Senate that S.R. Nos. 9 to 15 and S.B. Nos. 397 to 418 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 13 Legislative Management

Informing the Senate that S.C.R. Nos. 19 and 20, S.R. Nos. 16 and 17 and S.B. Nos. 419 to 449 have been printed and were distributed to the members of the Senate on February 8, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 14 Legislative Management

Informing the Senate that S.C.R. No. 21, S.R. Nos. 18 and 19 and S.B. Nos. 450 to 473 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 15 Legislative Management

Informing the Senate that S.B. Nos. 474 to 532 have been printed and were distributed to the members of the Senate on February 10, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 16 Legislative Management

Informing the Senate that S.R. No. 20 and S.B. Nos. 533 to 554 have been printed and were distributed to the members of the Senate on February 11, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 17 Legislative Management

Informing the Senate that Special Committee Report No. 4, S.R. Nos. 21 to 26 and S.B. Nos. 555 to 671 have been printed and were distributed to the members of the Senate on February 14, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 18 Legislative Management

Informing the Senate that S.C.R. Nos. 22 to 24, S.R. Nos. 27 to 30 and S.B. Nos. 672 to 804 have been printed and were distributed to the members of the Senate on February 15, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 19 Legislative Management

Informing the Senate that S.C.R. No. 25, S.R. Nos. 31 to 33 and S.B. Nos. 805 to 1491 have been printed and were distributed to the members of the Senate on February 16, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 20 Legislative Management

Informing the Senate that Gov. Msg. Nos. 82 to 151, S.R. No. 34 and Stand. Com. Rep. No. 21 have been printed and were distributed to the members of the Senate on February 18, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 21 Consumer Protection and Commerce on S.B. No. 48

The purpose of this bill is to rectify the problem of fraudulent motor vehicle insurance claims. Presently the law does not specifically address fraudulent motor vehicle insurance claims. This bill would prohibit payment of motor vehicle theft insurance claims until the insurer receives a written police report signed by the insured, allow law enforcement agencies access to an insurer's records of reported thefts, and require an insurer who has a reasonable cause to believe that a claim may be fraudulent to notify the police department in the county where the vehicle was reported stolen.

After consideration of the problem of fraudulent motor vehicle insurance claims, your Committee is in agreement that Senate Bill No. 48 adequately addresses the problem and should be adopted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 48 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, Uwaine and Soares.

SCRep. No. 22 Legislative Management

Informing the Senate that Gov. Msg. Nos. 155 to 158, S.C.R. Nos. 26 and 27, S.R. Nos. 35 to 39 and Stand. Com. Rep. Nos. 23 to 28 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. No. 23 Consumer Protection and Commerce on S.B. No. 22

The purpose of this bill is to require the manager or board of directors of a condominium to keep monthly records of delinquent assessments and to have those records available for inspection by the apartment owners.

Presently the law is unclear as to whether records of delinquent assessments are allowed to be examined by condominium apartment owners.

This bill would clarify the law by allowing such examination, and requiring records of unpaid assessments to be kept by a condominium manager or board of directors.

A spokesman for the Hawaii Council of Associations of Apartment Owners opposed the bill on the grounds that it would expose confidential information to those who might seek to use it for personal gain by "picking up property on a distress sale." The Hawaii Association of Realtors stressed the need to balance the right of privacy against the right to information which impinges upon one's financial interest.

Your Committee concludes that passage of the bill is in the best interest of the consuming public. The Committee desires, however, to make clear its intent that the bill is to apply to apartment owners only, and is not to serve as the basis of a "fishing expedition" by unauthorized persons seeking information about the business activities of a condominium association.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 22 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 24 Consumer Protection and Commerce on S.B. No. 13

The purpose of this bill is to require the insurance commissioner to publish annually a list of all noncommercial property insurers and their annual premium rates for representative homeowner insurance policies in a newspaper of general circulation.

Your Committee finds that most persons, whether they own or rent their homes buy some type of property insurance. Since the costs of coverage fluctuates among insurers, publication of comparative rates will benefit the consumer in terms of time and money, and may increase competition in the insurance industry and result in lower premiums.

Testimony received from the insurance industry and the insurance commissioner expressed general opposition to the types of information which must be included; however, they are in agreement as to the concept of publishing comparative homeowners insurance rates.

Your Committee adopted the recommendation of the insurance commissioner and amended the bill by deleting the requirements for publication of co-insurance factors; methods of valuing property; the ratio of coverage to property value; and the portion of the loss the insurer will assume if the property is underinsured. Instead, the commissioner is allowed discretion in determining what information would best serve the homeowner or tenant.

On the recommendation of the Committee on Ways and Means, your Committee deleted section 3 of the bill which appropriated \$6,000 for expenditure by the Department of Commerce and Consumer Affairs for publication costs and included that amount in the Department's budget. Sections 4 and 5 of the bill were appropriately renumbered.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 13, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 13, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 25 Consumer Protection and Commerce on S.B. No. 30

The purpose of this bill was to require persons collecting rent on behalf of owners of real property located within the State to file a copy of the rental collection agreement with the Department of Taxation within thirty days of entering into the agreement.

Presently the State loses general excise tax revenues on properties owned by persons outside the state because of the difficulty of identifying and locating property owners.

This bill would address this problem by facilitating the enforcement process and increasing state tax collections through voluntary compliance.

Your Committee has amended the bill by requiring only the first page of a rental collection agreement to be filed with the Tax Department. In conjunction with this amendment, the bill was also amended to require the first page to include the name, address, social security number, and general excise tax number of the property owner, the address of the property rented, and a statement in bold print,

ten-point size, indicating that a copy of the first page of the agreement shall be filed with the Department of Taxation and that the owner must pay general excise taxes on the gross rent collected.

Your Committee has further amended the bill to allow filing with the Department of Taxation, in lieu of the first page of the rental collection agreement, a copy of Internal Revenue Service form 1096 or 1099, and the property owner's social security number and general excise tax license number, at the same time the forms are filed with the Internal Revenue Service. This alternative filing would achieve the same result as filing the first page of the rental collection agreement.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 30, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 30, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 26 Consumer Protection and Commerce on S.B. No. 32

The purpose of this bill was to establish a statewide, toll-free, tie-line to provide speedy information and quick access to services provided by the Office of Consumer Protection.

Presently, the Office of Consumer Protection provides a referral service similar to a tie-line wherein consumer complaints are referred to the appropriate state enforcement agency.

This bill provides an appropriation to the department of commerce and consumer affairs to establish and administer a tie-line.

Your Committee finds that the costs for establishing a tie-line are relatively inexpensive and would provide a valuable service to Hawaii residents, particularly those on the neighbor islands, by expediting complaint registration and consumer advocacy.

Your Committee has amended the bill by increasing the recommended appropriation from \$1,500 to \$2,500. Testimony from the Office of Consumer Protection indicated that the original request may not be sufficient to establish and continue operating the tie-line.

Your Committee on Consumer Protections and Commerce is in accord with the intent and purpose of S.B. No. 32, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 32, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 27 (Majority) Consumer Protection and Commerce on S.B. No. 416

The purpose of this bill was to exempt transactions between Hawaii corporations which are members of an affiliated group of corporations from the general excise tax.

Currently, all sales of services or tangible property, unless expressly exempt, are subject to the general excise tax, including transactions between members of an affiliated group of corporations, i.e., corporations which are commonly owned. However, transactions between separate operating divisions of a single corporation are exempt from the general excise tax.

Your Committee finds that the differing tax treatment between businesses structured as separate corporations and businesses organized as a single corporation is inequitable and should be remedied as provided in this bill.

Your Committee further finds that the present law leads to pyramiding of taxes and higher business costs which ultimately results in higher prices for Hawaii's consumers.

Upon consideration of this measure, your Committee has amended the bill to clarify which transactions are exempted from the general excise tax and to allow affiliated corporations to file a consolidated excise tax return. Section 1 of the bill dealing with the purpose of the bill has also been amended for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 416, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 416, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.
Senator B. Kobayashi did not concur.

SCRep. 28 Consumer Protection and Commerce on S.B. No. 556

The purpose of this bill was to extend the existence of a special fund relating to the expedited processing of documents filed with the Department of Commerce and Consumer Affairs.

Act 244, Session Laws of Hawaii 1982, established special handling fees for the expedited processing of documents filed with the Business Registration Division of the Department of Commerce and Consumer Affairs. These fees were to be paid into a special fund which was to be used to pay for two temporary business registration assistants to process documents. The fund is scheduled for repeal effective July 1, 1984.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs that because of various delays the positions authorized to be funded by the special fund have not been filled and it is not expected that the positions will be filled until the end of April, 1983.

This bill extends the existence of the special fund until July 1, 1985 in order that the contemplated hiring of the two business registration assistants for two years can be accomplished.

Your Committee has amended the bill by making a technical change which has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 556, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 556, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 29 Legislative Management

Informing the Senate that S.C.R. No. 28, S.R. Nos. 40 to 43 and Stand. Com. Rep. Nos. 30 to 56 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 30 Federal Relations on S.B. No. 116

The purposes of this bill are to increase the limit the Governor may expend from the Major Disaster Fund from \$750,000 to \$1,000,000 for each disaster and to specify that the director of civil defense is authorized to request appropriation from the fund.

Your Committee finds that the increased amount is necessary to meet the rising costs of repair, restoration, and replacement of public facilities damaged by major disasters. Your Committee further finds that the specification of the director of civil defense will avoid any ambiguity as to who is legally authorized to request appropriations from the fund.

Your Committee amended the bill by correcting a drafting error which has no substantive effect.

Your Committee on Federal Relations is in accord with the intent and purpose of S.B. No. 116, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 116, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 31 Judiciary on S.B. No. 239

The purpose of the bill is to establish a state bail bond system by which 10% of the bail is deposited with the clerk of the court by the defendant, and upon the successful performance of bail conditions, 90% is returned to the defendant and 10% retained by the state.

Testimony by the public defender indicated that presently many indigent defendants cannot pay the bond premium required by professional bondsmen. Recent studies have shown that several hundred defendants are being held in lengthy pre-trial confinement because of their inability to raise bail. The bill would set a standard 10% bail security for all defendants. Moreover, testimony by the Judiciary revealed that bondsmen executed bail bonds in the approximate amount of \$13.2 million last year. The bill would allow the State to realize 10% of that amount.

Your Committee considered the testimony submitted and has made the following amendments to S.B. No. 239:

- 1) The requirement of a minimum deposit of \$25 for bail security by the defendant was deleted on page 1, lines 12-13 so as not to discriminate against the indigent defendant.
- 2) Similarly, the requirement of a minimum of \$5 retained by the State as bail bond costs was deleted on page 2, lines 8-9 so as to not discriminate against the indigent defendant.
- 3) The provision that the court may order, at defendant's request, that the amount of bail returnable to the defendant be paid to the defendant's attorney was deleted on page 2, lines 10-12 to clarify that the defendant may pay his or her attorney without necessity of a court order.
- 4) A specific reference to court costs was added on page 3, lines 8-9, to clarify that upon forfeiture, the bail security paid to the clerk of the court will be applied first to court costs incurred in the forfeiture.
- 5) The appropriations provisions on page 3, lines 15-21 were deleted as implementation of this bill should be accomplished within the existing framework of the judiciary.
- 6) A section requiring the administrative director of the courts to be responsible for the implementation of this bill was added to clearly indicate who is authorized and has the duty to effectuate the purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 239, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 32 (Majority) Judiciary on S.B. No. 318

The purpose of this bill is to establish an office of probation within the corrections division. Probation supervision formerly provided by the adult probation office and the family courts will be transferred to the office of probation.

The administrative function of monitoring and controlling defendants sentenced to probation should fall on the executive branch of government rather than the judicial. The transfer will accomplish this separation within the different branches of government.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 318 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 33 Judiciary on S.B. No. 487

The purpose of this bill is to provide a second law clerk for each of the three

judges of the intermediate appellate court and for the administrative judge of the district court of the first circuit.

During the 1982 Session, the Legislature authorized a second law clerk for intermediate appellate judges however the bill was vetoed because it contained an appropriation and it was passed before the supplemental budget bill.

Additional law clerks for the intermediate appellate court will increase the number of cases the court can resolve. On the average, the judges issue a written decision every three and a half working days. Efficiency can be increased with the addition of more staff.

A law clerk for the administrative judge of the district court of the first circuit will provide a basic research capability for the busiest of the district courts. There are presently no law clerks for any of the district judges.

Your Committee made technical nonsubstantive changes to the form of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 487, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 487, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 34 Judiciary on S.B. No. 491

The purpose of this bill is to require that jurors be paid mileage when traveling from court and to allow the court to adjust the pay of jurors, when circumstances warrant.

Presently, Section 612-8, Hawaii Revised Statutes, sets the pay of jurors at \$20 per day and 20 cents per mile traveled to court.

Your Committee finds that justice will be served by reducing some of the financial burdens of jury duty. This is especially true in very long trials when a juror's long absence from work may cause a severe hardship on the juror's family. This bill provides some measure of financial relief.

Your Committee amended the bill to increase the standard rate of pay from \$20 to \$30, at least equal to the minimum wage based upon an eight-hour day.

Your Committee also amended the language of the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 491, and recommends that it pass Second Reading in the form attached hereto as S.B. 491, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 35 Judiciary on S.B. No. 497

The purpose of this bill is to add a fourth judge to the Third Circuit, the Island of Hawaii.

Testimony by the Judiciary indicated that case filings and caseloads have increased over 25% in the Third Circuit, with the greatest increase in family court, which experienced increased case filings and caseloads of more than 50%. As a result, in fiscal year 1981-82, the circuit was only able to resolve 55% of the criminal cases within 180 days and 55% of the civil cases within 360 days.

A circuit court judge, able to hear both district court and circuit court cases, is now essential to prevent an even further backlog of cases in the Third Circuit.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 497 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 36 Judiciary on S.B. No. 532

The purpose of this bill is to transfer the jurisdiction of pre-trial detainees from the corrections division to the Intake Service Center. The bill also allows the Intake Service Center to utilize both State and private facilities for the provision of residential detention programs for the pre-trial detainee.

Your Committee received testimony from the Department of Social Services and Housing and the various intake service centers concerning the interpretation of the statute. Your Committee made two technical changes to clarify the jurisdictional authority of the intake service center over pre-trial detainees who have not been conditionally released.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 532, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 532, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 37 Judiciary on S.B. No. 705

The purpose of this bill is to require payment of a fine equal to the market value of the drug or compound, if greater than the statutory fine for the appropriate offense, from persons convicted of promoting a dangerous, harmful or detrimental drug or compound.

Testimony by the Honolulu Police Department supported the concept of the fine but opposed the establishment of a revolving fund into which the fines would be paid. Testimony from the Department of Health, the proposed custodian of the money, also questioned the creation of the revolving fund.

Your Committee amended the bill by deleting the provisions to establish a revolving fund.

Your Committee also clarified the language of the bill and made other technical nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 705, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 705, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 38 Judiciary on S.B. No. 1159

The purpose of this bill is to establish the Office of the Public Guardian, which shall be empowered to make decisions for persons found to be incapable of making responsible decisions about daily affairs or finances.

Your Committee received testimony from the Judiciary, the State Planning Council on Developmental Disabilities, the Executive Office on Aging, the Department of Social Services and Housing, the Commission on the Handicapped, the Hawaii Nurses Association, the Mental Health Association, the National Association of Social Workers, the Kokua Council for Senior Citizens, Protection and Advocacy of Hawaii, Catholic Social Service, and a private citizen in unanimous support of the concept of a public guardian.

The establishment of the Office will solve three significant problems that exist today:

- 1) It will provide courts a guardian available for appointment when there are no other willing or suitable persons to act for the incapacitated person;
- 2) It will eliminate the conflict-of-interest situation which arises when an agency providing services to the incapacitated person acts as guardian; and
- 3) It will consolidate the responsibility for informing the public about existing guardianship protective services.

The concept of a public guardian has been the subject of national attention in recent years as many states have established successful public guardianship agencies. This bill was the result of the task force for the study of the laws relating to guardianship, civil commitment, and protective services in Hawaii, which published a booklet entitled "Guardianship and Protective Services in 1980". Eighteen key public and private agencies and 150 consumers were surveyed to determine the problems they encountered with guardianship and protective services. The task found that establishing a public guardian agency is the best method to deal with the current problems regarding guardianships.

Your Committee reviewed the testimony and made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1159, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1159, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 39 Judiciary on S.B. No. 1292

The purpose of this bill is to appropriate \$1,500,000 for the settlement of the Holo Holo cases.

Testimony by the Attorney General indicated that the Holo Holo cases were settled on February 18, 1983, one week after trial for a total amount in excess of \$3,000,000. Four sources contributed towards the payment of the claims of eight plaintiffs; those sources were the State of Hawaii, the Research Corporation, University of Hawaii, the University of California and an insurance company on behalf on one of the plaintiffs.

Your Committee made some technical, nonsubstantive changes to the bill to correct capitalization.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1292 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1292, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 40 Judiciary on S.B. No. 1277

The purpose of this bill is to transfer responsibility for payment of court appointed counsel, from the Department of Budget and Finance to the Judiciary.

The Department of Budget and Finance testified that as a matter of sound financial management, the agency which incurs an expense should also be responsible for payment. However, the Judiciary and the Office of the Public Defender testified that the present payment system is working satisfactorily.

Your Committee therefore amended the bill to retain the present payment system and to delete the appropriation to implement the proposed transfer to the Judiciary.

Your Committee also amended the bill to increase the maximum fee schedule for court appointed attorneys to more realistic levels, in view of prevailing attorneys fees in the community. The changes to the maximum fee schedule are as follows:

1. Class A felony case - from \$2,000 to \$4,000
2. Any other felony case - from \$1,500 to \$3,000
3. Misdemeanor case - jury trial from \$1,000 to \$1,500

Your Committee finds that the payment of reasonable fees will insure an available pool of competent attorneys from which the court can make its appointments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1277, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1277, S.D. 1, and be referred to the Committee on Ways

and Means.

Signed by all members of the Committee.

SCRep. 41 Judiciary on S.B. No. 437

The purpose of this bill is to place within the criminal justice data center the responsibility of establishing and maintaining electronic data interface between the National Law Enforcement Telecommunications System, Federal Bureau of Investigation's National Crime Information Center, and the state computer, and with respect to criminal justice information systems, between the state operated OBTS/CCH system and the Honolulu police department system.

Your Committee finds that presently there is no such coordination between the State, Honolulu Police Department, and the federal government, and that such coordination would maximize the utility of information, reduce costs, eliminate duplicated effort and increase efficiency.

Your Committee made technical non-substantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 437, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 437, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 42 (Majority) Judiciary on S.B. No. 891

The purpose of this bill is to appropriate \$321,786 for the negotiated settlement between the Research Corporation of the University of Hawaii and Hawaiian Dredging and Construction Company on claims for costs overruns relating to the Ocean Thermal Energy Conversion (Mini-OTEC) project.

In 1978, HDCC was contracted by RCUH to provide management services for the Mini-OTEC project. The agreement between the parties required RCUH to pay HDCC's actual costs up to \$565,000.

Later, it was discovered that HDCC's costs were much greater than expected. The \$321,786 negotiated settlement between the parties has been reviewed by the Attorney General and the Department of Planning and Economic Development.

Your Committee made nonsubstantive technical and grammatical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 891, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 891, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 43 Judiciary on S.B. No. 938

The purpose of this bill is to increase the standard rate of pay for witnesses in civil and criminal cases.

Presently, Section 607-12, Hawaii Revised Statutes, sets the pay of witnesses in civil cases at \$4 per day and 20 cents per mile traveled to court; and Section 621-7, Hawaii Revised Statutes, sets the pay of witnesses in criminal cases at \$10 per day and 30 cents per mile traveled to court.

Your Committee finds that the present rates of compensation for witnesses are inadequate and often result in a financial hardship to the witness. If the witness has been subpoenaed to appear, failure to appear may result in that person being cited for contempt of court.

Your Committee amended the bill to increase the standard rate of pay for witnesses as follows:

- 1) In civil cases, from \$4 to \$30 per day with an increase in the compensation for mileage from 20 to 30 cents per mile; and

- 2) In criminal cases, from \$10 to \$30 per day with no increase for mileage which will remain at 30 cents per mile. Your Committee also amended the bill to allow the courts to use its discretion to increase or decrease compensation for service a circumstances warrant.

Your Committee is in accord with the intent and purpose of S.B. No. 938, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 938, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 44 Judiciary on S.B. No. 1039

The purpose of this bill is to provide medical, psychological, and legal assistance and counseling for victims and witnesses of crime.

Your Committee finds that the State is charged with the responsibility of protecting its citizens against criminal acts. As part of this obligation to its citizenry, the State should also attend to the needs of victims and witnesses of criminal acts. These programs will be under the direction of the Prosecuting Attorney in each county, and will be funded by general revenues.

Your Committee made substantive amendments to the bill by providing specific appropriations to each county as follows:

- | | |
|------------------------------------|-----------|
| 1) Hawaii County | \$ 90,000 |
| 2) Kauai County | 75,000 |
| 3) Maui County | 75,000 |
| 4) City & County of Honolulu | 150,000 |

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1039, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1039, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 45 Transportation on S.B. No. 1237

The purpose of this bill is to amend Chapter 264, Hawaii Revised Statutes, by adding a new section which includes the conversion of the Saddle Road on the island of Hawaii into the state highway system no later than June 30, 1983.

A transfer of jurisdiction of Saddle Road from County to State level implements and maintains Phase IV of the 1967 State Highway System Implementation Plan.

Saddle Road, which was built in 1942, is a major thoroughfare that is heavily used by residents as well as the military. Built forty years ago, Saddle Road can no longer accommodate the greater traffic demands that is incurred by population increases.

Your Committee believes this bill to be a realistic approach to the modern transportation demands of Big Island residents.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1237, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 46 Transportation on S.B. No. 215

The purpose of this bill is to amend Chapter 261, Hawaii Revised Statutes, by adding new sections for the registration of certain aircraft.

This bill authorizes the department of transportation to promulgate rules and regulations for registration procedures, to assess and collect fees and charges of

aircraft required to register, and provides a penalty for those who do not comply with the registration requirements.

Currently Title 14 Code of Federal Regulations Part 47 (14 CFR 47) provides for the registration of an aircraft with the Federal Aviation Administration, and registration is required by Section 501 of the Federal Aviation Act of 1958 (49 USC 1401). This registration information is furnished to the department of transportation.

However, the director of the department of transportation testified that the registration information from the FAA does not provide the sufficient information for the efficient management and control of public airports and the supervision of aeronautics required by Section 261-2 of the Hawaii Revised Statutes.

The department further testified that for operation control, detailed, up-to-date information on the various based and transient aircraft using the state airport system would be useful for planning purposes, allow for easier identification of aircraft when in the air and provide the name of a responsible contact person in the event of an emergency.

Your Committee has amended this bill by deleting the proposed new section addressing fees and charges, and has made a technical amendment which has no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 215, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 215, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 47 (Majority) Transportation on S.B. No. 390

The purpose of this bill is to provide an exemption of wharfage charges for agricultural products produced or grown in the State of Hawaii which are loaded or unloaded in any state harbor.

The fees incurred by agricultural producers in the state have in some instances been duplicative. Interisland as well as domestic and foreign market transportation costs by local industries have become a burden for these industries.

In an effort to assist and foster the agricultural industries situated in this state your Committee feels the elimination of wharfage fees for Hawaii's agricultural products will help to alleviate the financial burdens experienced by such businesses.

Your Committee has amended the bill to also exempt from wharfage fees shipping containers used to transport agricultural products.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 390, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 390, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senators Kawasaki and George did not concur.

SCRep. 48 Transportation on S.B. No. 439

The purpose of this bill is to amend Chapter 291, Hawaii Revised Statutes, by adding a new part which prohibits any blue illumination device from being affixed upon any motor vehicle, motorcycle, motor scooter, bicycle or moped except upon authorized law enforcement vehicles.

At present no law exists against having blue lamps affixed on vehicles. It is, however, a violation of the law if the blue lights are in a lighted condition.

Your Committee received testimony from the Honolulu Police Department in support of this bill. Testimony presented by the police department stated that under current laws enforcement has proved to be quite difficult in that most vehicles with blue lamps attached are usually in an unlighted condition.

Moreover, there has been recent public concern over the misuse of this emergency

device by other than authorized vehicles. If improper usage of such devices are allowed to continue enforcement capabilities by the police will be hampered with the possibility of further endangering public safety.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 439 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 49 (Majority) Transportation on S.B. No. 730

The purpose of this bill is to appropriate \$810,000 to the City and County of Honolulu for the costs of improvements to Moanalua Road, from Pali Momi Street to Aiea Interchange. The City will match the State appropriation for this project.

This project will widen the present two-lane road and provide sidewalks on each side of the road. The director and chief engineer from the department of public works testified in favor of this bill, stating that this project will relieve traffic congestion, improve traffic circulation and increase pedestrian safety.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 730 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 50 Transportation on S.B. No. 731

The purpose of this bill is to appropriate \$730,000 for the improvement and upgrading of certain roads on "Crown Lands" in Waianae.

Presently these roads are under the State's jurisdiction. Pursuant to Section 264-2, Hawaii Revised Statutes, the City is willing to assume jurisdiction over these roads once they are upgraded to a reasonably serviceable condition.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 731 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 51 Transportation on S.B. No. 732

The purpose of this bill is to appropriate the sum of \$620,000 to the City and County of Honolulu for improvements to the ventilation and lighting systems of the Wilson Tunnel.

The existing fans and lighting fixtures were installed in the 1950's and have been in continual use since the opening of the tunnel. The proper operation of the ventilation fans are necessary to avoid the build-up of carbon monoxide. The level of lighting is currently below the recommended standards.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 732 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 52 Tourism on S.B. No. 551

The purpose of this bill is to exempt from the general excise tax certain negotiated gratuities or service charges that are collected by employers and disbursed to employees.

This bill would amend section 237-24, HRS, to exclude from the general excise tax, revenues derived from negotiated gratuities or service charges, which are customary in amount, including guaranteed tips, for services provided or anticipated in connection with prepaid food and beverage or entertainment packages, banquets, group portorage services, group tour conductor services, and room services when the

charges are added to the sales price, and identified as gratuities, tips or service charges, and when the amount of such charges are disbursed by the employer to the employees who customarily and regularly provide such services.

Your Committee heard testimony from the Department of Taxation opposing the measure on the grounds that such an exemption is contrary to the philosophy of the general excise tax law, would tend to erode the tax base and discriminate against other taxpayers and businesses subject to the tax.

Conversely, your Committee heard testimony from the Hawaii Hotel Association and the Hawaii Transportation Association supporting the bill on the reasoning that there is no significant collection history of tips, gratuities and service charges and that such an exemption would result in little loss of revenue to the State of Hawaii. The testimony further contends that these funds are not income to the employer and should not be exposed to the general excise tax.

Your Committee is in agreement that with regard to the service charges addressed by this bill, employers are merely conduits for channeling moneys to employees and, therefore, such service charges should not be subject to the general excise tax.

The bill as received by your Committee contains outdated statutory material. Your Committee has amended the bill to conform to present statutory language.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 551, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 551, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 53 Consumer Protection and Commerce on S.B. No. 1037

The purpose of this bill was to establish uniform standards concerning product liability.

Several organizations testified in support of the bill. Some of the reasons cited were (1) a need for a statute of limitations to file claims against the manufacturer or distributors, and (2) that manufacturers should be protected against lawsuits when products are manufactured in accordance with prevailing industry or government standards at the time of manufacture.

The Office of Consumer Protection was specifically opposed to section -17 which gave them authority to adopt procedural rules for arbitrations arising from product liability claims. Since arbitration proceedings are within the supervision of the courts, it was deemed inappropriate for the Office of Consumer Protection to define procedural rules. Further, this bill sufficiently defines procedural rules for arbitration.

Your Committee amended the bill accordingly by deleting the reference to the Office on page 37, lines 12 and 13.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1037, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Chang.

SCRep. 54 Consumer Protection and Commerce on S.B. No. 380

The purpose of this bill was to provide for licensure and regulation of social workers by the Department of Commerce and Consumer Affairs.

Historically, the training of social workers in America has developed from the apprenticeship system during the late 1800's to formalized educational training by 1932. The educational requirements are rigorous and extensive and incorporate a body of knowledge, values, and skills, the process of developing conceptual knowledge and theory, and of learning to apply this knowledge in a professional manner. In Hawaii the professional education of social workers began in 1936.

Social workers have been concerned about the need for establishing standards to

ensure that consumers of social services may be served by individuals with proper educational qualifications and training.

Your Committee upon consideration of this measure and having heard extensive testimony, amended the bill as follows (References to page numbers are to pages of the bill as received by the Committee):

1. Page 3, subsection (c) was reworded for purposes of style and clarity.
2. Page 3, subsection (d) was amended by deleting the provision prohibiting the practice of social work without a license and substituting therefor a prohibition against using the title "social worker" without a license. A corresponding amendment was made to section -5 of the proposed new chapter.
3. Page 4, section -3 was amended by deleting the provision for an additional examination, because the current educational requirement for licensure appropriately addresses this subject. In conjunction with this amendment, all other references to examination in the original bill were deleted.
4. Page 5, subsection (f) was reworded for purposes of style and clarity.
5. Page 5, line 21; page 6, lines 4 and 8; the effective date of June 30, 1984 was amended to June 30, 1983. The reason for the change was to move the date of exemption from requirements up a year.
6. Page 7, section -5 was reworded for purposes of style and clarity.
7. Page 8, lines 11 through 16, the requirement for annual publication of names was deleted because the National Association of Social Workers currently provides this information.
8. Page 9, section -8, the requirements for license renewal was amended to strengthen and clarify provisions.
9. Pages 9 and 10, section -9 on fees was amended to allow the Director of the Department of Commerce and Consumer Affairs to establish rules pursuant to chapter 91.

Your Committee also amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 380, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 380, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Chang.

SCRep. 55 (Majority) Youth and Elderly Affairs on S.B. No. 539

The purpose of this bill is to provide an incentive for employers to provide child care services to their employees by allowing a deduction for any contributions, payments or reimbursements for child care services.

Current law allows only a limited deduction as an ordinary and necessary business expenses. The specific deduction proposed by this bill would provide further incentive for employers to reimburse their employees for child care services.

Your Committee has amended the bill to specify that only direct monetary payments or contributions qualify for the deduction and to limit the amount deductible. The effective date of the bill was amended to make the deduction applicable to taxable years beginning after December 31, 1982.

The bill has been further amended by substituting the words "Hansen's disease" for the word "leprosy" in section 235-7(a)(4) and substituting appropriate sex neutral terms for the word "his" throughout the section.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of S.B. No. 539, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 539, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator B. Kobayashi did not concur.

SCRep. 56 Youth and Elderly Affairs on S.B. No. 207

The purpose of this bill is to clarify the jurisdiction of the Family Court with respect to neglected or abused children and to bring within the purview of the Family Court those children who are threatened with substantial risk of harm before such harm is inflicted.

Your Committee finds that present laws do not allow the Family Court to assume jurisdiction over children who are threatened with abuse or neglect. As a result, the Department of Social Services and Housing as well as the Department of Education and the Department of Health are frequently unable to provide services until the child's circumstances become severe or until abuse or neglect has occurred.

Passage of this bill would permit court intervention on behalf of siblings of seriously abused or dead children. It will permit children to be brought before the Family Court for a judicial determination as being "threatened with harm" before the damage is done. This bill would enable children of mentally ill or severely retarded parents who are incapable of providing basic care to be brought to the attention of the court earlier. The siblings of sexually abused children could be recognized to be at risk by the court, thus preventing the reoccurrence of abuse or neglect in the family.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of S.B. No. 207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 207, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 57 Legislative Management

Informing the Senate that S.C.R. No. 29, S.R. No. 44 and Stand. Com. Rep. Nos. 58 to 211 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 58 (Majority) Human Resources on S.B. No. 344

The purpose of this bill is to grant civil service status to five employees in the Planning and Development Office of the Department of Agriculture.

Presently, all positions in the Department of Agriculture, with the exception of five exempt positions established by Act 218, SLH 1973 for agricultural planning and marketing, are classified in the civil service system.

Your Committee finds that to continue the exempt status of these positions would deny otherwise deserving employees the opportunities and rights now enjoyed by other civil service employees in the Department and other agencies in the State.

This bill remedies the situation by granting classified civil service status to the five exempt positions in the Department of Agriculture.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 344 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senators Abercrombie, Cayetano, Cobb and Henderson did not concur.

SCRep. 59 (Majority) Human Resources on S.B. No. 346

The purpose of this bill is to grant civil service status to neighbor island plant quarantine inspectors in the Pre-Departure Program of the Department of Agriculture.

Originally, inspectors in this program were hired with regular civil service status, but in May 1978 new civil service regulations placed all subsequent temporary positions on limited term status. Accordingly, all inspectors hired since May, 1978 have been given limited term exempt status, while inspectors hired prior to May, 1978 have retained their classified status. Presently, nine inspectors are classified and nineteen are exempt.

Your Committee finds that to continue the exempt status of these positions would deny otherwise deserving employees the opportunities and rights now enjoyed by other civil service employees in the Department and other agencies of the State.

Further, these employees are being paid 50% through special funds (airport landing fees assessed by the Department of Transportation) and the other 50% through Federal funds.

This bill remedies the situation by granting classified civil service status to the exempt inspector positions in the Pre-Departure Program of the Department of Agriculture.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 346 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Senators Cayetano, Cobb and Henderson did not concur.

SCRep. 60 Human Resources on S.B. No. 833

The purpose of this bill is to establish the administrative framework necessary for implementing the Job Training Partnership Act (JTPA) in a new chapter in the Hawaii Revised Statutes.

The Hawaii Job Training Coordinating Council has been established based on the mandate of the federal JTPA. This council, which serves as an advisory council to the Governor, would require the services of an executive director and a program assistant to properly implement JTPA.

In contrast to the temporary legislation of the Comprehensive Employment and Training Act (CETA), which it has replaced, JTPA is of permanent legislation. Those temporary positions under CETA, which would be abolished after September 30, 1983, can now be converted to regular state employee positions.

This bill would provide the Hawaii Job Training Coordinating Council with the services of an executive director and a program assistant, as well as retain the expertise of those temporary employees hired under CETA.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 833 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 61 Human Resources on S.B. No. 834

The purpose of this bill is to establish a state-funded job training program for dislocated workers under the Job Training Partnership Act (JTPA) of 1982.

Dislocated workers are generally defined as individuals terminated or soon to be terminated as a result of a permanent closure of a business, and with little or no prospect of returning to similar occupations in the area where they live. Typically, these individuals lack the necessary skills and training, and are without proper job assistance and job services necessary to enter into another line of work.

Your Committee finds that in order to qualify for federal funds under JTPA, the proposed job training program for dislocated workers is required to match dollar for dollar of non-federal funds with federal funds. The burden will be on the State to come up with the funds which the Federal Government will match.

This bill would provide the necessary job-related services to assist dislocated workers in their return to employment as well as appropriate the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1983-1984 and for fiscal year

1984-1985 for the establishment of a job training program for dislocated workers.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 834 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 62 Human Resources on S.B. No. 838

The purpose of this bill is to establish a voluntary job sharing program for all state departments and agencies as a management tool. Also, insofar as employment in the state's civil service system is concerned, the department of personnel services shall carefully develop the plans, procedures and guidelines which will be needed in the implementation of this program as a permanent part of the state's personnel system. In doing so, recognition shall be given to the management aspect and to the voluntary aspect of job sharing.

The pilot project for job sharing was created by Act 150, Session Laws of Hawaii 1978, and was amended by Act 134, Session Laws of Hawaii 1980, Act 105, Session Laws of Hawaii 1981, and Act 128, Session Laws of Hawaii 1982. During this testing period the job sharing project was found to be workable and in the best interest of the educational system of the State.

Your Committee held a public hearing on this bill and heard testimony in support of this bill from representatives of management, employee unions and the public. Further, your Committee was guided by the successful experiences gained during the pilot project which has been in existence since 1978 in the department of education.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 838 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 63 Human Resources on S.B. No. 839

The purpose of this bill is to extend the effective date of the amendment to paragraph (1) of Section 88-74, Hawaii Revised Statutes, effected by Act 165, Session Laws of Hawaii 1982, from July 1, 1982 to January 1, 1983.

Your Committee finds that currently early retirement benefits (below age 55) for police officers, firefighters, adult correction officers, investigators of the Prosecuting Attorney's Office, and certain classes of sewer workers would be applicable only when those members serve in these respective capacities for at least 25 years as well as the last five years prior to retirement.

According to the Administrator of the Employees' Retirement System, the Trustees are aware of three individuals who retired during the period July 1, 1982 to December 31, 1982 whose benefits were calculated erroneously pursuant to the adoption of Act 165.

Your Committee also finds that to comply with Act 165 at this time would result in substantially reduced benefits to these three individuals.

Your Committee further finds that the Board of Trustees feels that it has a moral obligation to grant the same retirement benefits that existed prior to the enactment of Act 165, 1982 to these three individuals due to an oversight and unintentional error by the Employees' Retirement System staff. Further, passage of this bill will avoid a long and costly civil suit that would be imminent without legislative relief.

Your Committee has made technical nonsubstantive amendments to the bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 839, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 839, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 64 Human Resources on S.B. No. 840

The purpose of this bill is to limit a member of the Employees' Retirement System of the State of Hawaii who leaves his regular position or employment for the purpose of entering military service to no more than five years of service credit in the System so long as he remains in military service.

Your Committee finds that when such a member enters military service, he is treated as if he were continuously in the active service of the State or county and the employer government is required to pay both the employer and employees contribution to the Employees' Retirement System for the period he remains in the military service.

Your Committee further finds that a member who is ordered to military duty for an indefinite period, could conceivably spend a majority of his entire working career in the armed service and upon termination of his military service collect a retirement allowance from the Employees' Retirement System calculated on the full period of time in the military service without having contributed to such retirement allowance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 840, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 65 Human Resources on S.B. No. 844

The purpose of this bill is to expand the authority of the Health Fund's Board of Trustees to contract with various types of dental plans to provide children's dental services.

Your Committee finds that under present law, the Health Fund has the discretion to contract with various types of insurance carriers for medical plans. However, the Health Fund does not have the same flexibility with respect to dental plans. Your Committee believes that the Health Fund should be permitted to consider a variety of dental plans to provide children's dental services.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 844, and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 66 Human Resources on S.B. No. 849

The purpose of this bill is to increase the amount of monthly contributions to be paid by the State and counties to the Public Employees Health Fund, and to make appropriations therefor.

The bill amends Sec. 87-4 to require the State and counties, as employers to pay a higher monthly contribution for their employees' Medical Plan benefits. The increases are from \$15.98 to \$19.78 for self-only enrollment, and from \$49.14 to \$60.80 for family enrollment.

The bill further provides for appropriations to fund the program as follows: \$2,110,000 for fiscal year 1983- 1984, and \$2,174,000 for fiscal year 1984-1985.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 849, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 67 Human Resources on S.B. No. 878

The purpose of this bill is to amend Chapter 89, relating to Collective Bargaining, by including contributions to and benefits of the Hawaii public employees health fund as negotiable items.

Your Committee held a public hearing on this bill and heard testimonies from the State Director of Personnel Services, State Chief Negotiator for Collective

Bargaining, the Administrator of the Health Fund, and representatives of Hawaii State Teachers Association and Hawaii Government Employees Association. While there was support for the negotiability of the contributions, there was considerable opposition to the concept of negotiability for benefits of the Health Fund. Further, there was a strong recommendation that negotiations on the contributions be made jointly by all bargaining units.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 878, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 878, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 68 Human Resources on S.B. No. 931

The purpose of this bill is to establish a Nursing Home Without Walls Demonstration Project.

There is no type of project of this nature currently in Hawaii. Due to the increasing numbers of the aged and chronically ill people, there is presently a shortage of long term care beds. One of the central issues in this demonstration project will be the development of a body of services which will support family and other informal caregivers enabling them to maintain primary responsibility for their chronically ill and aged patient.

Your Committee finds that there is a real need for this demonstration project in Hawaii through testimony by the Department of Social Services and Housing and their study of a similar type of program in the state of New York. The Nursing Home Without Walls Program would serve as an alternative to institutionalization in skilled nursing and intermediate care facilities due to the high cost of institutionalization. One of the recommendations to cut the high cost institutionalization care would be to place a ceiling on total project expenditures. This ceiling would limit the cost to not more than 75 per cent of the Medicaid cost to maintain the program's approved number of patients at their appropriate level of institutionalized care.

This bill authorizes a Nursing Home Without Walls demonstration project. There is appropriated the sum of \$618,968, or so much thereof as may be necessary for fiscal year 1983-1984, and the sum of \$1,454,795, or so much thereof as may be necessary for fiscal year 1984-1985, to carry out the purposes of this act, including the hiring of necessary staff. The sum appropriated shall be expended by the Department of Social Services and Housing.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 931 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 69 (Joint) Health and Youth and Elderly Affairs on S.B. No. 718

The purpose of this bill is to create a childrens trust fund with moneys obtained from increasing the fees charged for certified copies and searches, transcripts or other statistical summaries of vital records.

As received by your Committee, the bill earmarked the moneys in the children trust fund for funding programs for the protection and care of neglected children. The bill was amended to expand the authorized use of the moneys to programs for the prevention of abuse or neglect of children.

Your Committees on Health and Youth and Elderly Affairs are in accord with the intent and purpose of S.B. No. 718 as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 718, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 70 Hawaiian Programs on S.B. No. 119

The purpose of this bill is to increase the ceiling on Hawaiian Home Lands loans to lessees for the repair, maintenance, purchase and erection of a dwelling, and related

permanent improvements.

Presently loans to lessees for the repair, maintenance, purchase and erection of a dwelling, and related permanent improvements are limited to \$50,000.

Your Committee has amended the bill by increasing the ceiling to \$60,000 on loans to lessees for the purchase and erection of a dwelling and has retained the \$50,000 ceiling on loans to lessees for the repair and maintenance of a dwelling and related permanent improvements.

Your Committee finds that the present loan ceiling of \$50,000 is sufficient for the repair and maintenance of a dwelling or related permanent improvements.

Your Committee has also amended the bill by correcting minor drafting errors which have no substantive effect.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 119, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 119, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 71 Hawaiian Programs on S.B. No. 614

The purpose of this bill is to include the Office of Hawaiian Affairs' proposed general fund appropriation for the operation of the Office in the Governor's financial plan of expenditures and appropriations for the State which is submitted to the Legislature prior to each session.

Currently, the Office of Hawaiian Affairs is mandated only to submit its budget to the Legislature in every odd-numbered year, and a supplemental budget in even-numbered years.

This bill will enable the Legislature to be informed of the Office of Hawaiian Affairs' proposed budget request prior to the session and to interface the request with the appropriation plans of the Judiciary, Executive, and the Legislative branches of the State.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 614 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 72 Hawaiian Programs on S.B. No. 721

The purpose of this bill is to exempt the Office of Hawaiian Affairs from certain provisions of Hawaii Revised Statutes.

Specifically, this bill would exempt the Office of Hawaiian Affairs from laws relating to management of State Funds (chapter 36), budget (chapter 37), deposit of public funds (chapter 38), civil service (chapter 76), compensation (chapter 77), and public employment (section 78-1).

The bill would allow the Office of Hawaiian Affairs greater flexibility in achieving its objectives.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 721 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 73 (Majority) Hawaiian Programs on S.B. No. 921

The purpose of this bill is to transfer the administration of the Native Hawaiian Rehabilitation Fund from the Department of Hawaiian Home Lands to the Office of Hawaiian Affairs.

Pursuant to its broad statutory mandate under chapter 10, HRS, the Office of

Hawaiian Affairs has the primary responsibility for identification of the physical, sociological, psychological, and economic needs of native Hawaiians and establishing goals for programs to meet such needs. Therefore, your Committee finds that the Office of Hawaiian Affairs, rather than the Department of Hawaiian Home Lands, is the agency most logically oriented and equipped to administer the Native Hawaiian Rehabilitation Fund which was established to improve the economic, educational, political, social and general welfare of native Hawaiians.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 921 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senators Machida and Holt did not concur.

SCRep. 74 Hawaiian Programs on S.B. No. 922

The purpose of this bill is to require the Department of Accounting and General Services to establish a comprehensive financial accounting system for the Department of Hawaiian Home Lands and to audit that department annually.

Presently the Department of Hawaiian Home Lands is not audited by any department or agency but is required by law to submit an annual report to the legislature.

This bill would provide the Department of Hawaiian Home Lands with the necessary financial expertise to not only establish a sound accounting system, but to also maintain its viability through periodic checks and financial audits.

Your Committee has amended the bill by requiring biannual instead of annual audits. Your Committee finds that annual audits would result in prohibitive costs which are contrary to the intent and purposes of this bill.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 922, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 922, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 75 Human Resources on S.B. No. 150

The purpose of this bill is to conform the deferred compensation law to changes in the State tax law.

Act 7, passed during the Special Session of 1981, authorizes the establishment of a state deferred compensation plan and allows the counties to participate or develop their own plans.

According to the testimony of the director of personnel services, the state plan is being developed with enrollment to begin soon.

Presently, compensation deferred in accordance with section 457 of the Internal Revenue Code is excludable from federal income tax, and there is a comparable provision in the Hawaii Revised Statutes for exclusion from Hawaii state income tax.

This bill reconciles the deferred compensation law with the state tax law.

Your Committee has amended the bill by making non-substantive technical changes to conform to recommended drafting style.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 150, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 150, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 76 (Majority) Tourism on S.B. No. 271

The purpose of this bill is to appropriate \$1,400,000 or so much thereof as may be necessary, out of general revenues of the State of Hawaii for fiscal year 1983-1984 to

the Hawaii Visitors Bureau. Of the sum appropriated, \$1,000,000 is to be expended for advertising and marketing programs and \$400,000 is to be expended for general operational support of the Hawaii Visitors Bureau.

Your Committee received testimony from the Department of Planning and Economic Development, the Hawaii Visitors Bureau, the Hawaii Hotel Association and the Chamber of Commerce of Hawaii. It was recognized that competition from other resort destinations has been tremendous in recent years and that there will always be a need to sell Hawaii as a tourist destination. This appropriation is a statement of the State's continuing support and assistance of the visitor industry.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 271 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 77 (Majority) Tourism on S.B. No. 1316

The purpose of this bill is to provide funds for tourism programs.

Your Committee amended the short form bill to insert substantive provisions. The bill appropriates out of general revenues of the State of Hawaii, the sum of \$200,000 or so much thereof as may be necessary, for fiscal year 1983-1984, for a grant-in-aid to the county of Kauai to be used by the Kauai Promotions Committee and the Hawaii Visitors Bureau.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1316, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1316, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senators Kawasaki and B. Kobayashi did not concur.

SCRep. 78 Health on S.B. No. 126

The purpose of this bill is to exempt credit card use for State hospital charges from the provisions of Section 40-35, Hawaii Revised Statutes.

Under Section 40-35, money paid to the State under protest is retained by the State pending resolution of the dispute; however, federal regulations guarantees a credit card holder the right to withhold payment to the card company in the event of a dispute.

Therefore, the credit card companies are concerned that allowing payment for State hospital charges by credit cards would result, in cases of disputes between the patient and the hospital, in the card companies not being able to collect the moneys from the patient or obtain a refund of the disputed amount from the State until resolution of the dispute. This would cause financial losses to the credit card companies.

This bill resolves the conflict between State and federal law for State hospital charges and removes the barriers that are currently hampering State hospital negotiation for credit card services.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 126 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 79 Health on S.B. No. 127

The purpose of this bill is to provide a procedure to determine the surname of a legitimated child born out of wedlock.

Presently, a legitimated child born out of wedlock must take the father's surname if the parents of the child cannot agree on a surname.

In recent years, the choice of a legitimated child's surname when the parents do not agree on a surname has become an ongoing administrative problem. Although the number of such situations is relatively small, the emotional intensity of the involved parents has caused the consumption of a disproportionate amount of administrative attention to this subject. The Research and Statistics Office of the Department of Health is concerned primarily with the recording and maintenance of vital statistics and records and should not be involved in disputes between the parents of a legitimated child. These disputes should be resolved in court, with consideration of the best interests of the legitimated child.

The constitutionality of the current law is being challenged in court on the basis that it violates the right to equal protection under the laws and the right to freedom of speech.

This bill would resolve these constitutional problems and direct the courts to specify the surname of the child in the best interests of the child.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 127 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 80 Health on S.B. No. 306

The purpose of this bill is to mandate the Department of Health to administer a maternal and child health program.

Presently, the department is limited by statute to providing preventive services in the area of maternal and child health.

Your Committee finds that there is also a need for assessment, planning, coordination, monitoring and evaluation of health services provided to mothers and children, in order to reduce infant and maternal mortality and promote health of mothers and children.

This bill authorizes the Department of Health to provide a comprehensive maternal and child health program and will also enable the Department to provide services through contracts with other agencies. No additional funding is required to carry out these purposes beyond that authorized for ongoing programs.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 306 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 81 Health on S.B. No. 538

The purpose of this bill is to establish the Hilo hospital authority to manage the operation and maintenance and supervise the capital improvement of Hilo hospital under the Department of Health.

Your Committee finds that an independent local governing body for Hilo hospital will improve the management and operation of the hospital, in addition to improving services necessary for the health care needs of the residents of the Big Island.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 538 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 82 Health on S.B. No. 591

The purpose of this bill is to protect the proceedings of specialty medical society peer review committees from judicial discovery procedures.

At present the law protects the proceedings and records of peer review committees of medical, dental, and optometric staffs in hospitals and local medical, dental or optometric societies from discovery. It is not clear, however, whether the law covers

peer review committees of the medical, dental and optometric specialty societies in Hawaii which are composed of practitioners in the same areas of specialty.

Your Committee finds that peer review committees of specialty societies perform useful services in helping to ensure that consumers receive high quality medical, dental and optometric services. Such committees can only function effectively if its records are protected. This bill would clarify that the proceedings and records of all specialty medical society peer review committees are protected from discovery.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S. B. No. 591, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S. B. No. 591, S. D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 83 Health on S.B. No. 592

The purpose of this bill is to establish a Center for Forensic Psychiatry in the Department of Health.

Recent changes in the civil commitment law for mental illness have drastically increased the number of persons who overlap the mental health and criminal justice systems. In addition, there is a growing public awareness and concern regarding the insanity defense.

Presently, because there is no State institution responsible for training or certification of persons performing forensic examinations of patients, a patient may be judged criminally insane by one physician and competent to stand trial by another physician.

Your Committee finds that a Center for Forensic Psychiatry will provide a place where mentally ill persons accused of committing crimes may be sent for diagnosis, treatment, and monitoring, and where expertise can be developed in the administering of examinations to determine criminal liability. It would also collect data, conduct research on those it examined, educate and train mental health professional in forensic matters, and, in short, be the primary means of improving the laws regarding mental health and criminal liability.

This bill establishes the Center for Forensic Psychiatry within the Department of Health and allows the Department to hire staff to carry out its functions. No monies are appropriated for these purposes at this time because the Department currently has the means for implementing the beginning stages of the project.

Your Committee has amended the bill by changing the title of the project from "The Center for Forensic Psychiatry" to "The Forensic Center."

Your Committee on Health is in accord with the intent and purpose of S.B. No. 592 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 84 Health on S.B. No. 593

The purpose of this bill is to grant immunity from civil liability to people who serve on peer review committees of specialty societies.

Current law provides that members of professional peer review committees be immune from civil liability for any acts committed in furtherance of the purpose for which the committee was established.

Your Committee finds that Hawaii's specialty societies may not be immune under the law as it now reads, and your Committee further finds that peer review committees of specialty societies should be included in the blanket of immunity protecting "professional societies", as defined in section 663-1.7, Hawaii Revised Statutes.

This bill places specialty societies within the definition of "professional society",

thereby extending to them the same immunity already granted to other societies.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 593, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 593, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 85 Health on S.B. No. 649

The purpose of this bill is to remove the statutory distinction between "osteopathic physician" and "osteopathic physician and surgeon."

For sixty years the state's Board of Osteopathic Examiners has been issuing two kinds of licenses: one for "osteopathic physicians" and one for "osteopathic physician and surgeons."

Your Committee finds, on the basis of expert testimony presented by the Board of Osteopathic Examiners, that this distinction has resulted in needless confusion because all graduates of the fifteen osteopathic colleges in America are certified as both physicians and surgeons and are so licensed in all of the other 49 states.

This bill removes the term "osteopathic physician" where it appears in the statutes, leaving the correct title "osteopathic physician and surgeon."

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 649, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 649, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 86 Health on S.B. No. 717

The purpose of this bill is to include prevention of child abuse and neglect within the jurisdiction of the Preventive Medicine branch of the Department of Health.

Currently, child abuse and neglect services are provided by the Department of Social Services and Housing.

The Department of Health considers child abuse and neglect to be a social problem and opposes the inclusion of jurisdiction proposed by the bill on the basis that it would fragment the services now provided by the Department of Social Services and Housing. The Department of Human Resources of the University of Hawaii, on the other hand, supports the bill on the basis that activities which serve to prevent child abuse and neglect should be an expressed part of any system of maternal and child health services, such as that mandated for the Department of Health.

Your Committee finds that prevention of child abuse and neglect is consistent with the maternal and child health care mandate of the Department of health, and should be so expressed in the statute relating to the functions of that department. Your Committee further finds that to do so would not necessitate the development of additional state services or increase current expenditure levels.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 717 and recommends that it pass Second Reading and be referred to the Committee on Youth and Elderly Affairs.

Signed by all members of the Committee.

SCRep. 87 Health on S.B. No. 821

The purpose of this bill is to establish a gerontology unit within the Department of Health.

Currently there is a Gerontology Unit demonstration project in the Department of Health which has been operating on seed money provided by the Executive Office of Aging. The Department would like to make it permanent, but in light of statewide budget ceilings, it was unable to include the Unit in the administrative budget for fiscal year 1983-1984.

Your Committee finds that the Gerontology Unit has established itself as an important vehicle for expanding access to services for the benefit of Hawaii's elderly.

Your Committee further finds that, if statutorily authorized, the Unit can offer significant, cost-conscious improvements in delivery of services through coordinated program planning, community and institutional cooperation, support of self-help groups, data collection, coordination of geriatric training programs, and information dissemination.

This bill authorizes the department to establish the Gerontology Unit on a permanent basis and appropriates \$78,970 for fiscal year 1983-1984 to finance its operation.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 821 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 88 Health on S.B. No. 824

The purpose of this bill is to establish a statutory basis for providing services to developmentally disabled persons.

Under present law, the Department of Health, through its Community Services for the Developmentally Disabled Branch, is authorized to provide a full range of services to mentally retarded persons, but there is no statutory basis for the delivery of services to severely handicapped or otherwise disabled persons who are not mentally retarded.

Your Committee finds that there are many moderately retarded individuals who function normally without Department services, while at the same time there are multiply handicapped people in the community who are developmentally disabled rather than mentally retarded who could greatly benefit from services but cannot receive them due to the lack of specific language in the law.

This bill repeals the community service portion of the mental retardation statute and establishes that the Community Services for the Developmentally Disabled Branch of the Department of Health may provide services to handicapped persons.

Your Committee has amended the bill by adding the words "in consultation with consumers, private agencies, and other interested parties" to the section on Eligibility in page 2 of the bill. This will give the Department a more comprehensive basis for determining who is eligible for the services.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 824, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 824, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 89 Health on S.B. No. 825

The purpose of this bill is to establish a fund to assist hemophiliacs with medical expenses and to appropriate \$130,000 for fiscal year 1983-1984.

Hemophilia is a life-long catastrophic disorder of the blood clotting mechanism which often results in severe emotional and financial problems for the sufferer. Average yearly costs for treatment are in the \$10,000 range and one episode could cost upwards of \$42,000.

Your Committee sympathizes with the costly plight of hemophilia sufferers and recommends the creation of a fund, within the Department of Health, to assist them.

This bill establishes such a fund and makes an appropriation of \$130,000 for fiscal year 1983-1984 to start the fund under the guidance and administration of the Hemophilia Foundation of Hawaii.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 825 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 90 Health on S.B. No. 826

The purpose of this bill is to ensure long-term care services for Hawaii's elderly and low-income population in certain community hospitals.

Currently, the average cost of long-term hospitalization is \$108 per day. The Tax Equity and Fiscal Responsibility Act of 1982 notified hospital providers that they will be reimbursed only \$68 per day per patient for all services, leaving them with an estimated \$40 per day shortfall which cannot be absorbed or shifted to private patients.

Your Committee heard testimony by the Executive Office on Aging, Castle Memorial Hospital, the University of Hawaii's School of Public Health, Kokua Council for Senior Citizens, and the Hospital Association of Hawaii, all of whom agree that State relief is necessary to ensure the adequate long-term care of Hawaii's elderly and indigent people. Your Committee concurs with the testimony and finds that State funds are necessary to ensure the long-term care of the elderly and indigent people.

This bill appropriates \$3,750,000 for fiscal year 1983-1984 to be expended by the Department of Budget and Finance to supplement the reimbursement costs of the medicare and medicaid programs of St. Francis Hospital, Kuakini Medical Center, Wahiawa General Hospital, G.N. Wilcox Hospital, Kahuku Hospital, Castle Memorial Hospital, Molokai Hospital, and Rehabilitation Hospital of the Pacific.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 826 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 91 Health on S.B. No. 994

The purpose of this bill is to authorize the Department of Health to make a loan of not more than \$250,000 to Molokai General Hospital.

Currently, Molokai Hospital faces a substantial negative cash flow and additional liabilities of \$260,000 in loans, trade and other payables, some of them dating from June, 1982.

Testimony by the hospital indicates that they will be able to repay the loan at the rate of approximately \$2,800 per month over fifteen years at ten per cent. They have also committed themselves to reducing overall expenses and controlling their budget to assure future fiscal responsibility.

This bill will solve Molokai Hospital's current problem and allow it to meet the needs of the residents of Molokai.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 994 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 92 Health on S.B. No. 1282

The purpose of this bill is to change some of the criteria for voluntary and involuntary hospitalization of persons suffering from mental illness.

Under current law it is often not possible to provide needed care to individuals suffering from mental illness, who are unable to care for themselves, communicate rational or responsible decisions, or lack the capacity to understand their infirmities.

By adding the concept of "gravely disabled individuals" to the current statute relating to mental health, these individuals can obtain needed care through involuntary hospitalization.

This bill would also remove dangerousness to property from the criteria for hospitalization and add "imminent" to the danger to self and others criteria for non-emergency involuntary hospitalization. These changes conform to recent court decisions.

Additionally, the bill proposes to change the standard of proof for involuntary hospitalization from "beyond a reasonable doubt" to "clear and convincing evidence" that the criteria for involuntary hospitalization have been met.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1282 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 93 Ecology, Environment and Recreation on S.B. No. 459

The purpose of this bill is to provide taxpayers the option on State tax forms of contributing toward the conservation of state endangered wildlife.

Your Committee finds that fifty-eight per cent of the nation's endangered species are Hawaiian and public expenditures for their recovery have not fulfilled urgent needs. Broad concern with the loss of unique lifeforms has resulted in this proposed check-off option for voluntary contributions. This option is already well established in twenty other states and has been of great benefit to each region's natural heritage.

Your Committee received and concurred with testimony that all native wildlife be protected. Your Committee amended the bill by substituting the word "native" for "endangered" throughout the bill to broaden the scope of the program.

A spokesman for the State Department of Land and Natural Resources expressed the concern that the department's general fund appropriations would be diminished if additional revenues were made available to the department. Your Committee therefore amended the bill to provide that no general fund appropriation to the Department of Land and Natural Resources shall be reduced or remain unallocated due to funds from the native wildlife account.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 459, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 94 Ecology, Environment and Recreation on S.B. No. 799

The purpose of this bill is to establish a means whereby pollution control projects can be financed by the counties through the issuance of special purpose revenue bonds.

Under present law the legislature may authorize the counties to issue special purpose revenue bonds.

The bill provides the authorization for bonds which will finance the design, acquisition, coordination, installation or modification of pollution control projects for the disposal of solid waste.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 799 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 95 Ecology, Environment and Recreation on S.B. No. 926

The purpose of this bill is to make an appropriation to provide an accurate report

on the dynamic aspects of beach structure for the neighbor islands.

Your Committee finds that a study of beach erosion will foster intelligent development and conservation of sandy coasts and minimize the loss of private property and damage to scenic natural resources.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 926 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 96 Ecology, Environment and Recreation on S.B. No. 927

The purpose of this bill is to provide for the establishment of cultural live-in parks within the State park system, provided that the residents of such parks preserve and perpetuate traditional native Hawaiian activities and culture.

Your Committee received testimony from the Ahahui Ohana Moku Anuenuue, an organization that is working towards the establishment of a cultural live-in park featuring a fishing village on Sand Island.

The establishment of a cultural live-in park would be a step towards preserving the culture, tradition and history of the Hawaiian people for the appreciation and education of present and future generations of this State. A cultural live-in park would provide a location for the community to gather to learn of traditional native Hawaiian technologies and activities, historic land use patterns and family structure.

Your Committee interpreted subsection (1) on page 4, lines 16-19 of the bill as not precluding the Office of Hawaiian Affairs from using funds derived from the control and management of ceded lands to achieve the objectives of the plan.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 927 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 97 Ecology, Environment and Recreation on S.B. No. 1089

The purpose of this bill is to establish a non-profit corporation, "The Hawaiian Islands Aquarium Corporation", to operate and maintain the Waikiki Aquarium and marine-related research and educational programs. The transfer of control of the Aquarium from the University of Hawaii to this corporation is necessary for the expansion and development of the Aquarium into an independent, self-sufficient recreational and educational institution.

Your Committee made the following amendments:

- 1) Provided that the corporation be independent by deleting provisions assigning the corporation to the University of Hawaii for administrative purposes.
- 2) Provided general guidelines regarding the composition of the board of directors of the corporation.
- 3) Added provisions to define and protect the interests of current aquarium employees during the transfer of control of the Aquarium from the University of Hawaii to the corporation.
- 4) Substituted the word "aquatic" for "marine" throughout the bill to provide for both fresh and salt water organisms.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1089, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 98 Ecology, Environment and Recreation on S.B. No. 1268

The purpose of this bill is to make an appropriation for the design and construction of a new Hawaiian Islands aquarium facility.

Your Committee received testimony from the Department of Planning and Economic Development recommending an appropriation of \$1,000,000 based upon a study by Kramer, Chin & Mayo, Inc., which provided for a preliminary design fee of \$100,000 and architect-engineer design services including administration of a construction contract of \$1,089,921.

Your Committee made an amendment to specify \$1,000,000 as the amount of the appropriation following the recommendation of the Department of Planning and Economic Development. In addition, your Committee amended this bill by changing the agency responsible for expending this appropriation from the University of Hawaii to the Department of Planning and Economic Development.

Your Committee amended the bill by adding "plans" to the purpose of the appropriation, based on the testimony that the amount appropriated would be for designing and planning the construction of the new facility.

Your Committee also amended the bill by deleting site references by map and lot number and substituting a general description of the desired site.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1268, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1268, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 99 Ecology, Environment and Recreation on S.B. No. 1279

The purpose of this bill is to merge the Environmental Quality Commission and the Environmental Council, and realign their functions with the Office of Environmental Quality Control.

Your Committee finds that the consolidation of these fragmented functional groups would streamline the review and reduce the confusion in the evaluation of Environmental Impact Statements.

Your Committee has amended the bill to provide general guidelines regarding the composition of the council in order to assure broad and balanced representation.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1279 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1279, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 100 Government Operations and County Relations on S.B. No. 403

The purpose of this bill is to provide emergency financial assistance to the County of Kauai.

The damage that Hurricane Iwa inflicted on the island of Kauai was extensive. Based on damage claims submitted by individual agencies to the Federal Emergency Management Agency (FEMA), the estimated replacement value of losses to county property on Kauai is approximately \$6 million. Although FEMA will pay for seventy-five per cent of the cost of replacing damaged and destroyed property, the county is required to put up the remaining twenty-five per cent, which will amount to about \$1.5 to \$2 million.

According to federal regulations, all repair work must be completed within 18 months of the disaster. Therefore, Kauai must act expeditiously to ensure completion of all repair and reconstruction

Your Committee finds that the county is not in a position to meet its share of the costs because of severely reduced revenues caused by hurricane Iwa. For example, revenues from tourism and agriculture have declined because of loss of visitors in

the wake of the hurricane and crop damage. Your Committee further finds that this extraordinary situation places a responsibility on the State to furnish immediate emergency assistance to the county of Kauai. This bill provides such assistance.

Upon consideration of this measure, your Committee has amended the bill by changing the amount appropriated to \$1,250,000.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 403, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 403, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 101 Government Operations and County Relations on S.B. No. 607

The purpose of this bill is to increase program income by allowing private organizations to accept voluntary contributions from persons who receive their services.

Recent State and federal funding cutbacks have resulted in reduced allocations for services provided to the people of Hawaii. Although federal program regulations allow the acceptance of contributions in return for services, this has not been the case for state funded programs.

This bill seeks to counter the effects of funding cutbacks through the acceptance of contributions from program recipients. It is hoped that the contributions may benefit those programs by providing a continuance of services at their current level or possibly even expanding the level of services.

Your Committee received testimony from various agencies to the effect that the bill provided an added benefit to those people who receive these services, by allowing them the opportunity to contribute to the program, thereby enhancing their self-esteem.

Your Committee amended subsection (b) at page 2, lines 15 and 16, by deleting the phrase "encourage contributions from persons who receive services" and inserting the phrase "inform persons who will receive services, that contributions will be accepted." The purpose of this amendment is to insure that no recipient is pressured, coerced, or otherwise induced to make a contribution against his or her will.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 607, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 607, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 102 Government Operations and County Relations on S.B. No. 693

The purpose of this bill is to equitably compensate the counties for their enforcement of traffic and animal violations.

Under current law, the counties are responsible for the enforcement of traffic and animal violations. All fines and forfeitures from traffic and animal violations are collected by the county district courts, transferred to the State Director of Finance and deposited in the State general fund. Thus, the counties are burdened with the enormous expenses attributed to their enforcement efforts and receive no compensation from traffic and animal control fines and forfeitures.

This bill would allow the State Director of Finance to disburse to the respective counties fifty per cent of all traffic and animal control fines and forfeitures collected by the district courts in each county. Your Committee finds that this bill would equitably compensate the counties for their expenses of enforcement of traffic and animal control violations.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 693, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 103 Government Operations and County Relations on S.B. No. 1173

The purpose of this bill is to give counties the power to issue tax anticipation notes (TANS).

Currently, the counties principal source of revenue is from real property taxes which are levied at the beginning of the year but not collected until August and February. However, all of this revenue is appropriated for expenditure and temporary cash shortages may occur before the taxes are collected.

This bill remedies the situation by allowing counties to issue TANS in an amount not exceeding twenty-five per cent of the amount of taxes levied and uncollected for such year, less any outstanding tax anticipation notes. Interest is payable at maturity, which shall not be later than the last day of the fiscal year in which the note is issued.

Your Committee finds that the issuance of TANS have the benefits of (1) alleviating temporary cash flow shortages while awaiting the collection of taxes levied for the fiscal year, and (2) providing opportunities for increasing investment earnings.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1173 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 104 Government Operations and County Relations on S.B. No. 1196

The purpose of this bill is to provide the sum of \$100,000 to the Hawaii Redevelopment Agency for the fiscal years 1983-84, and 1984-85.

The Hawaii Redevelopment Agency is a semi-autonomous county agency consisting of a five member commission appointed by the Mayor and subject to Council confirmation. The requested funds are for the planning and implementation of individual projects such as the economic revitalization of downtown Hilo and adjacent Kukuau and Pu'ueo, as well as for administrative purposes.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1196 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 105 Government Operations and County Relations on S.B. No. 1200

The purpose of this bill is to authorize the counties to guarantee loans made by a bank to a public instrumentality.

Your Committee received testimony from the Department of Finance, County of Hawaii, that the County wanted to assist the Research Corporation of the University of Hawaii by guaranteeing loans for the construction of base facilities for organizations operating telexcopes on Mauna Kea. Legislation is necessary to authorize the County to guarantee such bank loans.

Your Committee finds that county guarantees would strengthen the loans, result in lower interest rates, and benefit not only the University but the community as a whole.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1200, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1200, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 106 Culture and Arts on S.B. No. 1267

The purpose of this bill is to provide the Honolulu Symphony with a matching

grant of \$500,000, for an endowment fund provided that the Symphony raise a dollar for dollar match.

Your Committee amended the bill by changing the matching ratio from one-to-one to a two-to-one match and by extending the time period to raise the funds from one year to two years. The amendment to change the dollar ratio was made because it is more equitable to spread the support of the State dollar to its fullest rather than to appropriate a large sum of money to one private institution which already receives other grant moneys from the State. The increased ratio also encourages and increases the level of private support.

Your Committee finds that due to the ratio increase, the time period required to achieve the match should also be extended to the end of fiscal year 1984-85.

Your Committee on Culture and Arts is in accord with the intent and purpose of S.B. No. 1267, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1267, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 107 Culture and Arts on S.B. No. 1272

The purpose of this bill is to change the number of commission members from twenty-two to eighteen.

Your Committee amended the bill to conform to existing statutory language.

Your Committee on Culture and Arts is in accord with the intent and purpose of S.B. No. 1272, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1272, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 108 Hawaiian Programs on S.B. No. 1298

The purpose of this bill is authorize the Department of Hawaiian Home Lands to issue revenue bonds for undertaking and maintaining any of the Hawaiian home loan programs.

Your Committee has amended this short form bill to insert substantive provisions. The bill in S.D. 1 form would amend the Hawaiian Homes Commission Act, 1920, by adding two new sections that authorize the Department of Hawaiian Home Lands, with the approval of the governor, to issue revenue bonds in amounts not exceeding the total amount of bonds authorized to be issued by the legislature. The revenue bonds would be payable from and secured by the revenues derived from leases, permits, or licenses of Hawaiian home lands.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 1298, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1298, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 109 Education on S.B. No. 224

The purpose of this bill is to expand the educational opportunities of exceptional children by providing them an educational allowance.

The Department of Education has a declared obligation to provide educational services to exceptional children who are severely mentally, physically or multiply handicapped.

However, your Committee finds that even with the Department's active involvement in this area, that many needs are going unmet and that established resources are being underutilized. In addition, your Committee recognizes that most parents of exceptional children need some financial assistance to secure the best education for their children whether in the public school system or in nonsectarian private schools which meet the criteria set forth in section 301-22, Hawaii Revised Statutes.

This bill provides to parents of exceptional children an allowance amounting to seventy-five per cent of the tuition charged by the school or program in which the child is enrolled, but not to exceed \$1,500 per calendar year. Such an allowance will result in expanded educational opportunities for the children, as well as financial relief for the parents and some savings to the Department of Education.

Your Committee has amended the bill by adding language clarifying the intent of the bill to bring only severely mentally or physically handicapped or multiply handicapped children within the ambit of the bill rather than all exceptional children.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 224, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 224, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 110 Education on S.B. No. 402

The purpose of this bill is to provide a state tax credit to a taxpayer who donates a computer to a Hawaii public school.

Presently, chapter 235, Hawaii Revised Statutes, conforms to Internal Revenue Code provisions which permit a deduction for individuals who itemize their deductions for purposes of computing state or federal tax liability. In the case of a gift of property, the deduction is based on its fair market value at the time the donation is made. There is no provision for a federal tax credit for charitable contributions.

This bill would specifically provide a state tax credit, in lieu of a deduction, to a taxpayer who donates a computer to a Hawaii public school.

The bill has been amended by:

- (1) deleting computer programs as an item for which a tax credit may be taken;
- (2) deleting the provision allowing only new computers to be donated; and
- (3) adding a definition of "computer" to clarify the intent of this bill.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 402, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 402, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 111 Education on S.B. No. 1048

The purpose of this bill is to require the Department of Education to establish and provide voluntary after-school care programs at each public elementary school, or at a nearby site if facilities are inadequate.

Presently, the Department permits the use of school facilities by outside groups to provide after school child care programs. However, the Department is not mandated by law to provide such programs. Your Committee is aware that Hawaii has a large number of families in which both parents work and finds that there is a need for after school care programs.

Your Committee heard testimony from the Department of Education and the Office of Children and Youth expressing general agreement with the intent of the bill. However, both agencies expressed reservations to mandating the Department of Education to establish after school programs because of presently unknown work load and cost implications. Therefore, your Committee has amended the bill to remove the requirement that the Department "establish" such programs and substituting a requirement that the Department "promote the establishment" of after school child care programs. This amendment will give the Department flexibility in providing services within its capabilities.

Your Committee has also amended the bill by making language changes for the purpose of clarity and a technical change to conform to recommended bill drafting format.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1048, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1048, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 112 (Majority) Education on S.B. No. 1049

The purpose of this bill is to change the compensation method for members of the Board of Education.

Presently, board of education members are compensated at the rate of \$50 per day for each day's actual attendance at meetings. During the past two years, the board has stepped up its activities and has been examining many important policy issues that have emerged. Therefore many additional board meetings are necessary due to unforeseen circumstances such as matters involving collective bargaining negotiations, personnel changes, school emergencies and library problems that require the formulation or updating of policies. More meetings have meant more costs; however, under the executive budget timetable, the board's budget is developed at least one year in advance and cannot be readily adjusted as conditions change.

This bill converts the compensation of board members from a daily rate to an annual rate. This means that each board member receives the same stipend regardless of the number of meetings attended. This method of compensation is also in keeping with other similar elected bodies that formulate policies such as the state legislature and county councils.

The bill provides a stipend of \$5,000 per member. This is comparable to the average amount received by each board member and is within the amount budgeted in the 1983-1985 biennial budget. At \$5,000 per member, the total cost for thirteen board members is \$65,000. This is less than the \$72,210 budgeted under current services in the 1983-1985 biennial budget. A flat rate also encourages autonomy by the board in scheduling its hearings.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1049 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Ajifu did not concur.

SCRep. 113 Education on S.B. No. 1122

The purpose of this bill is to reestablish the salary of the State Librarian to the level of a department head.

The functional responsibility and accountability of the State Librarian has been significantly increased and expanded in scope by Act 150, Session Laws of Hawaii, 1981. Previously the State Librarian's position was within the Office of Library Services, and subject to the control and direction of the Superintendent and Deputy Superintendent of Education. Currently the position of State Librarian is directly under the control and direction of the Board of Education, and is therefore accountable at a far higher level. Additionally, the State Librarian has a far higher level of exposure to public demands and pressures and from an organizational standpoint, appears to be at an equivalent level with the Superintendent.

The bill will elevate the position of State Librarian to department head status. Your Committee held a public hearing and received favorable testimony in support of this measure.

The bill was amended to provide that the position of State Librarian shall be exempt from Chapters 76 and 77.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1122, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1122, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 114 Education on S.B. No. 1137

The purpose of this bill is to transfer all activity, responsibility, budget allocations, and functions related to student transportation from the Department of Accounting and General Services (DAGS) to the Department of Education (DOE).

Presently, DOE student transportation needs are provided by DAGS. Therefore, although the ultimate responsibility for student transportation lies with the DOE, the department does not possess concomitant authority. Your Committee finds that student transportation problems can be resolved by consolidating both the responsibility for and authority over student transportation with the DOE.

Your Committee heard testimony from Mr. James E. Edington of the DOE who concurred with the Board of Education in recommending the transfer of all student transportation functions to the DOE.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1137 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 115 (Majority) Education on S.B. No. 1138

The purpose of this bill is to transfer the repair, maintenance, custodial, and janitorial services for public school facilities presently administered and performed by the Department of Accounting and General Services (DAGS) to the Department of Education (DOE).

Presently, the DOE has responsibility for physical plan operations and maintenance, however, the budget, authority, equipment and physical facilities exist, in part, under the control of DAGS.

A Department of Education staff report prepared in 1982 in response to S.R. No. 11-82 concluded that transferring the repair and maintenance program to the DOE would be highly desirable from an operational and managerial standpoint.

Your Committee finds that the current separation of responsibility and authority between two departments causes confusion, and is contrary to the state constitution which gives the Board of Education "jurisdiction over the internal organization and management of the public school system."

Your Committee notes that the services transferred from DAGS to DOE do not include construction or capital improvement project related duties.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1138 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kuroda did not concur.

SCRep. 116 Education on S.B. No. 1396

The purpose of this bill is to establish a revolving fund for the Public Library System.

Your Committee has amended this short form bill to insert substantive provisions. The bill, in S.D. 1 form would amend section 312-4, Hawaii Revised Statutes by:

- (1) Changing the section title from "Disposition of fines and related income" to "Libraries revolving fund"; and
- (2) Deleting the requirement that income from library operations be deposited with the Director of Finance to the credit of the general fund; and
- (3) Establishing a revolving fund for public libraries into which would be deposited all fines, fees and other revenues derived from the loan and use of library materials; and

- (4) Designating the funds to be expended by the public library system, rather than the Department of Education, for replacement of books and other reading material.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1396, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1396, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 117 Health on S.B. No. 360

The purpose of this bill is to guarantee that patient/employees at the Kalaupapa facility be paid at least the statutory minimum wage.

Currently, patient/employees are paid fifty-three per cent to seventy and one-half per cent of the statutory minimum wage, with intervals of three and one-half per cent separating each step.

This bill deletes the six obsolete pay grades and establishes the statutory minimum wage as the base pay for patient/employees. It would affect twenty-eight employees in the Kalaupapa employment program, of whom twenty-two are pensioners working no more than nineteen hours without loss of pension benefits as allowed under Section 326-23, Hawaii Revised Statutes.

Testimony by the Department of Health indicates that the intent of the Kalaupapa program is similar to the National Hansen's Disease Center at Carville, Louisiana, where patient employees receive the minimum wage as a therapeutic measure to promote the care, recovery, or rehabilitation of these patients.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 360 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 118 Health on S.B. No. 423

The purpose of this bill is to establish a State Council on mental illness and substance abuse, and advisory boards in each service area.

The recent removal of federal mental health program guidelines thrust the responsibility for system organization, monitoring and evaluation on the individual states.

The Department of Health, in part, supports the concept of an integrated system of substance abuse and mental health services, as does the Mental Health Association in Hawaii, the Hawaii Chapter of the National Association of Social Workers, and the Hawaii Nurses Association. Your Committee concurs with the general intent of the proposal, and believes that it will enable the Department of Health to develop a framework for planning and coordinating mental health and substance abuse activities while making maximum use of community input.

However, your Committee finds that requiring the Department of Health to develop the system and provide specific services is beyond the Department's current capabilities and budgetary resources. Therefore, your Committee has amended the bill to delete the additional substantive responsibilities which the bill proposed to place with the Department. The bill, as amended, essentially provides for the establishment of a state council on mental illness and substance abuse to advise the Department of Health and a framework for coordinating all services relating to mental illness and substance abuse.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 423, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 423, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 119 (Majority) Health on S.B. No. 1100

The purpose of this bill is to legalize the use of marijuana as prescribed treatment for glaucoma, asthma, alcoholism, and side effects of chemotherapy.

Since 1981, marijuana and its active ingredient, tetrahydrocannabinol (THC), has been available to Hawaii physicians as an experimental drug for treatment of nausea associated with cancer chemotherapy.

Your Committee finds that there is mounting evidence to indicate that marijuana may also be useful in alleviating symptoms of glaucoma, asthma and alcoholism, and that research thereon and medical use should be permitted under the strict supervision and control of the Department of Health. The Department concurs, and supports this bill, as does the American Civil Liberties Union of Hawaii and the Hawaii Council of Churches.

This bill would allow the legalization and use of marijuana for medical treatments under the strict scrutiny of the Department of Health.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1100 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 120 Health on S.B. No. 667

The purpose of this bill is to establish a statewide poison information service as a component of the State Comprehensive Emergency Medical Services System of the Department of Health.

According to the Hawaii Medical Association, there are more than 800,000 potentially toxic substances in our environment and more than 20,000 acute incidents of poisoning are reported each year. In 1982 the Hawaii Poison Center responded to 10,710 calls, an increase of 1,256 calls from the previous year.

Your Committee finds that a statewide information system is needed to provide rapid retrieval of current and appropriate information relating to substance identification, diagnosis, and treatment.

This bill establishes a statewide poison information service within the State Comprehensive Emergency Medical Services System of the Department of Health.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 667 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 121 Health on S.B. No. 128

The purpose of this bill is to eliminate the obsolete fee schedule and residency requirement for undertakers, embalmers, and funeral directors.

The current fee schedule for examinations, license renewals, penalties, and apprenticeship certifications, in the above professions have not been revised since its enactment in 1937.

This bill allows the Department of Health to restructure the fees for undertakers, embalmers, and funeral directors, and removes the one-year residency requirement for the embalmer's license.

Your Committee finds that there is a need to restructure the fee schedule to reflect the escalating costs of health administration in today's economy. Further, your Committee is informed that a Deputy Attorney General's written opinion states that the one-year residency requirement for obtaining an embalmer's license is unconstitutional.

Your Committee amended the bill by making a technical nonsubstantive change to conform to recommended drafting format.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 128, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 128, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 122 Health on S.B. No. 477

The purpose of this bill is to change the standard of proof necessary to involuntarily hospitalize an individual for non-emergency diagnostic examination or treatment.

Under current law the standard of proof required for involuntary commitment is "beyond a reasonable doubt."

This bill changes the standard of proof from "beyond a reasonable doubt" to "clear and convincing evidence."

Your Committee heard testimony from the Department of Health, the Mental Health Association of Hawaii, the Public Defender's Office, the Family Court, as well as from several community members who spoke about the experience of loved ones who suffered or even died at least indirectly as a result of the current statute. While many who testified expressed concern that the proposed change lowers the standard of proof required for commitment and argued that the current statute is sufficient, your Committee finds that changes are necessary which would allow commitment of persons who have not committed an egregious act or posed an overt danger to themselves or others but who clearly need help and treatment, or at least analysis, and cannot and afford private facilities.

Your Committee has amended the bill by specifying that if the petitioner seeks a finding under section 334-60(b)(4)(J), and if a guardian is to be appointed that the Notice of Petition must so reflect and identify the guardian nominee. Your Committee has further amended the bill by deleting the proposed substitution of the words "clear and convincing" in section 334-60(b)(4)(G) for the word "sufficient," in reference to the quality of evidence needed to substantiate that the allegations in a petition are true, if the subject has refused examination by a physician.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 477, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 477, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 123 (Joint) Hawaiian Programs and Youth and Elderly Affairs on S.B. No. 901

The purpose of this bill is to transfer the administration of the Progressive Neighborhoods Program community service centers to the Department of Social Services and Housing and the Office of Hawaiian Affairs under a joint agreement to deliver services.

Currently, The Progressive Neighborhoods Program provides seed money for and administers pilot projects designed to meet some of the needs of Hawaii's people. The Department of Social Services and Housing, on the other hand, provides direct services and other benefits to Hawaii's needy, and the Office of Hawaiian Affairs has the duty to administer the trust obligation imposed by the State Constitution in the interest of native Hawaiian and Hawaiian beneficiaries.

Testimony by the Department of Social Services and Housing indicates concern regarding the scope of the services to be delivered under the joint agreement and how they would fit into current Department activities. The Office of Hawaiian Affairs, on the other hand, supports the plan.

Your Committees find that the proposed joint operation of Progressive Neighborhoods Program community service centers is in the best interest of Hawaii's people because it will expedite the delivery of services to Hawaiians and non-Hawaiian alike under an efficient and cost effective joint administration. Your Committees further note that the Office of Hawaiian Affairs has demonstrated commendable cooperation in efforts to achieve this end, whereas the Department of Social Services and Housing

has been reluctant to endorse the plan because of apprehensions which your Committees believe to be unwarranted.

Your Committees on Hawaiian Programs and Youth and Elderly Affairs are in accord with the intent and purpose of S.B. No. 901 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 124 Judiciary on S.B. No. 6

The purpose of this bill is to appropriate \$332,019.81 for compensation awards made pursuant to the Criminal Injuries Compensation Act.

Your Committee made nonsubstantive grammatical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 6, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 6, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 125 Judiciary on S.B. No. 5

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

Three additional claims were submitted by the Attorney General. These were judgment claims against the State in the total amount of \$119,862.51 (including interest) and were included on page 3, lines 9-18 of the bill.

The bill appropriates the following:

(1) refund of taxes	\$ 6,644.93
(2) judgments against the State and settlement claims with/interest:	264,798.80
(3) miscellaneous claims	427.43
Total:	<u>\$264,798.80</u>

Your Committee made technical, nonsubstantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 5, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 5, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Toguchi.

SCRep. 126 Judiciary on S.B. No. 1198

The purpose of this bill is to mandate that the State pay reasonable attorney's fees and court costs to an individual or entity against whom a civil action has been filed and who prevails.

This bill is modeled after the federal Equal Access to Justice Act, which became effective on October 1, 1981. Since 1981, nine states, including California, Arizona, and Colorado, have enacted similar legislation.

Your Committee finds that often times, an action filed by a governmental agency, although subsequently dismissed by the agency, results in extreme financial and personal hardship for the person against whom the action was initiated. Businesses may be financially ruined and individuals may be subjected to ridicule and scorn. The prospect of protracted litigation and onerous legal fees and court costs will often dictate that the party defending such an action accept responsibility for the alleged acts, even if the government's actions are without merit.

Your Committee is of the opinion that this bill will provide an effective check

against frivolous claims by government and will provide an incentive for careful screening of cases prior to commencement of civil actions.

Your Committee made technical, nonsubstantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1198, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1198, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 127 Judiciary on S.B. No. 635

The purpose of this bill is to establish a sentencing guideline commission, which has the responsibility of setting sentencing guidelines for the courts and guidelines for minimum terms of parole.

Your Committee held a hearing on this bill, but after further consideration has decided that it is necessary to address all other functions of the criminal justice system and not just the function of sentencing.

Over the years, your Committee has been concerned with recurring problems in the criminal justice system. Many of these problems, stem from the lack of coordination in the system. Consequently, the system has numerous duplication of services, serving and providing the same programs to the same target groups.

As an example, our present criminal justice system includes four major computer information systems. They are PROMIS, which is used by the police, prosecuting attorneys, and the intake service centers; HAJIS used by the Judiciary; OBTS/CCH used by the Hawaii Criminal Justice Data Center; and OBSIC used by the Corrections Division. All of these systems track the same offender and in the end, duplicate the collection of data which is a part of other systems. Only three agencies have combined their efforts to transfer information through the PROMIS system. The other systems have not interfaced with the others, and further require the transfer of information to be done manually for inputting into their system.

When a person enters the criminal justice system there are four major evaluations that are required on the person for pre-trial, pre-sentence, incarceration, and parole. These evaluations are based on the same information including the person's criminal history, family background, economic status, and educational background. In addition, information on the person's activities occurring between each report are added to the person's evaluation.

Presently, the pre-trial report is performed by the Intake Service Center; the pre-sentence report is performed by the Judiciary's adult probation and counseling services divisions, with the exception of those reports assigned to the neighbor island Intake Service Centers; evaluation for incarceration is performed by the Corrections Division; and evaluation for parole is performed by the Hawaii Paroling Authority.

The function of post-sentencing is divided between into branches of government. Post-sentencing includes incarceration, probation, and parole. The portion dealing with incarceration, including conditional release, furlough, and community release of incarcerated persons, is administered by the Corrections Division. The portion dealing with probation is handled by the Courts. Parole is under the purview of the Hawaii Paroling Authority. Community release, probation, and parole share the same goal, which is to allow individuals, who show the ability to live in the community and who do not pose any danger to society, during the person's sentence.

Your Committee has amended this bill by establishing a new agency called the Office of Criminal Research, Investigation, Monitoring, and Evaluation (C.R.I.M.E.). The functions of this office are to coordinate and assist the various agencies in the criminal justice system with research, investigation, monitoring, and evaluation. This office is also responsible for evaluating the programs within the system. Additionally, the Office of C.R.I.M.E. has been placed under the legislative branch of government to insure independence.

This bill also establishes the Hawaii Criminal Justice Master Plan including goals and responsibilities for the various agencies in the criminal justice system. This amendment allows for the setting of uniform standards that are consistent with each other and which do not presently exist.

Your Committee has further amended this bill to reflect the above concerns by eliminating the duplication of services. This bill consolidates the Hawaii Criminal Justice Data Center and the ISC's OCIS systems into one system under the Office of C.R.I.M.E. This is to enable access to a person's criminal history data by all criminal justice agencies. By utilizing the ISC's PROMIS program, the Office of C.R.I.M.E. will be able to interface with the police departments and the offices of the prosecuting attorneys. There shall be a security system where any departmental information which the user agencies input for their own purposes may be closed to others.

This bill is also amended to consolidate the four evaluations which are required on an offender. The evaluations are assigned to the Office of C.R.I.M.E. to facilitate and utilize the statistics available for such evaluations. This eliminates the duplication of similar reports which are presently performed by four different agencies.

All functions of post-sentencing are now a part of the Corrections Division in DSSH, including probation. This bill establishes a Community Release Branch under the Corrections Division, which incorporates an existing line agency called the Conditional Release Branch. The new Community Release Branch would be responsible for conditional release centers, furlough programs, and community release programs. Presently, each correctional facility administers their furlough programs within their facility. The new organizational structure allows for accountability for all persons fulfilling their sentences outside an incarcerated mode. This also allows for a total picture of the failures and successes of persons in alternatives to incarceration programs. Parole and probation are treated as a community release program which utilizes the same services for monitoring and counseling provided by the Community Release Branch.

Under the bill as amended, probation has been renamed to community release and the present authority held by the courts has been retained. The only difference is that the monitoring and counseling services are provided by the community release branch.

Parole has been repealed and replaced with community release. Your Committee finds that in the present corrections operations, a committed person who proves that he or she can reintegrate into the community and who will lead a law-abiding life, may be permitted to return to the community on a community release. This release serves the same purpose as that of parole. In addition, this release is monitored and counseling services are provided, similar to parole.

This bill also includes provisions for the Office of C.R.I.M.E. to conduct research and to formulate recommendations to correct and prevent problems occurring in the criminal justice system. Presently, research is performed on a piecemeal basis and usually as a reaction to the problem. Our State needs an on-going research program which is able to prevent problems from occurring, as well as to consider how the problems affect the total system. The Hawaii Crime Commission is repealed and its functions transferred to the Office of C.R.I.M.E.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 635, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B.No. 635, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 128 Judiciary on S.B. No. 1031

The purpose of this bill is to establish an organized crime funding program in the Department of the Attorney General to assist state and county law enforcement agencies in the investigation and prosecution of persons engaged in organized crime. The bill provides that the Attorney General would develop a plan of financial and technical assistance for the various law enforcement agencies in the State.

Testimony by the Honolulu Police Department in support of the bill indicated that the organized crime funding program will improve its capability to combat organized crime.

Your Committee amended the bill to add on page 2, line 7, that the Attorney General shall allocate the funds based on the proportion of county population to state population. Since the most populous places are the areas with the highest incidence of crime, this allocation appears to be the fairest and most equitable.

Your Committee deleted Section 3 of the bill as it appeared unnecessary to create a new part for only one section. Your Committee made further technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1031, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1031, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 129 Judiciary on S.B. No. 472

The purpose of this bill is to add relatives of a murder victim to the list of people eligible for compensation from the State Criminal Injuries Compensation Commission.

Testimony by the Victim/Witness Kokua Services of Honolulu and the Criminal Injuries Compensation Commission indicated that presently only parents and adult children of the murder victim are allowed to apply for compensation. It is common however, for the brother or sister of the murder victim to pay for such costs as funeral expenses. This change recognizes the prevalent cultural practice of relatives contributing towards the expenses of another member of the family.

Your Committee amended the bill on page 3, lines 17-18, to clarify that relatives of the murder victim can apply for compensation for out-of-pocket medical, funeral, and burial expenses, but not for loss of earnings or other pecuniary losses from the murder of the victim, unless the relatives are also dependents. From the testimony, it is apparent that the problem in need of correction is the denial of out-of-pocket medical, funeral, and burial expenses to relatives, not the inability of relatives, who are not dependents, to be compensated for other pecuniary losses.

Your Committee also made the following changes to the bill:

1. The most significant amendment is the elimination of pain and suffering as a compensable item. An award for pain and suffering requires a very subjective evaluation of the victim and the circumstances of the crime. Much of the award is based purely upon the feelings and reactions of the commissioners. Understandably, many victims become dissatisfied with the small amount of the awards in comparison to their pain and suffering.

Given the \$10,000 maximum amount of compensation under this chapter, it is not possible for the Commission to make an award which will reasonably compensate the victim for pain, suffering, emotional, and physical distress. The standing committee reports on S.B. 16, which in 1967 became the Criminal Injuries Compensation Act, clearly state that the original purpose of the Act was to make awards in recognition of the government's duty to protect citizens from criminal acts, not to make benevolent grants out of mercy or sympathy. Primarily, the awards were to compensate victims of crime for personal injuries and certain property damages. Despite this intent, the award has become the kind of benevolent grant that the original drafters wanted to avoid.

Your Committee finds that limiting awards to out-of-pocket medical or funeral expenses and other measurable monetary losses, incurred by the injury to or death of the victim, is in accord with the Act's original intent and it will relieve the Commissioners of the weighty burden of attributing a dollar amount to the victim's physical and emotional distress.

Your Committee also finds that deletion of the highly subjective award for pain and suffering will result in fairer and more equitable awards to all claimants.

Your Committee is aware of the plight of the victim, and is presently considering many other bills, such as the Victim's Bill of Rights, which will provide extensive substantive rights to victims. Also being considered are funding requests for various programs, which will provide moneys for counseling and other support services to victims. Your Committee believes that measures such as these would better serve the needs of victims than mere monetary compensation.

2. Your Committee amended section 351-14, Hawaii Revised Statutes, to clarify that the person applying for compensation does not have to provide written statement, document, or other written verification to prove the amount of compensation, but may rely on other means of available verification. This will prevent the Commission from becoming an impersonal accounting system,

- requiring the victim to produce receipts before considering compensation.
3. Your Committee amended section 351-17(a), Hawaii Revised Statutes, to provide that if the victim incurs medical expenses after the award, he or she may apply to the commission to reconsider the award. This would permit claimants to apply for compensation for unanticipated or unexpected medical expenses arising from injuries from the crime.
 4. Your Committee amended section 351-66, Hawaii Revised Statutes, to provide that compensation paid under this chapter shall be exempt from taxation, execution, garnishment or other process. Your Committee believes an award of compensation is not income to the claimant but merely reimbursement for expenses or lost earnings. It therefore should not pass to creditors of the claimant to pay outstanding debts.
 5. Your Committee made a technical, nonsubstantive change to section 351-62.5, Hawaii Revised Statutes, to correct a spelling error.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 472, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 472, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 130 Judiciary on S.B. No. 1299

The purpose of this bill is to appropriate \$200,000 for data gathering and analysis, surveys of population distribution, research, and other activities related to reapportionment.

Your Committee received testimony from the Lieutenant Governor, who stated that, "In conjunction with Act 249 (1982 legislative session), the Legislature also appropriated \$200,000 to the Lieutenant Governor's office for FY 1983 to provide funding for surveys and data compilation necessary to support a new reapportionment plan". The Lieutenant Governor also stated that, "...The \$200,000 lapsed at the end of June 1982.". This bill "would reappropriate the lapsed funds".

Your Committee finds that the 1981 legislative session appropriated \$200,000 as part of the Governor's Executive Budget for fiscal year 1981-82; additionally, the legislature of that year increased the original appropriation by \$74,796 for a total of \$274,796.

Your Committee is of the opinion that the Hawaii State Reapportionment Commission, which was appointed in 1981, had surveys of population distribution, research, and other similar activities relating to reapportionment. Your Committee realizes that these studies may require updating, however, your Committee finds that duplication of previous efforts should be avoided.

Your Committee amended this bill by deleting the figure "\$200,000", and requests that your Committee on Ways and Means determine the amount of the appropriation.

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

Signed by all members of the Committee.

SCRep. 131 Judiciary on S.B. No. 51

The purpose of this bill is to permit the clerk of the court to assist sole proprietors in preparing documents required to be filed in small claims actions. Presently, only individuals are permitted to receive such assistance.

Your Committee finds that sole proprietorships often do not have the financial resources of corporations and other business arrangements; a sole proprietorship is nothing more than an individual in business for himself or herself.

Your Committee also finds that by raising the jurisdictional limits of the small claims division, the caseload of the regular claims division of the district court will

be reduced. Additionally, the costs of pursuing a claim in small claims division is substantially lower than is the regular claims division.

Your Committee made the following substantive amendments:

1. The jurisdictional limit of the small claims division is increased from \$1,000 to \$5,000 in cases to recover money; and
2. The jurisdictional limit of the small claims division is increased from \$1,000 to \$5,000 in claims for return of leased or rented personal property and money owed under the lease or rental agreement.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 51, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 51, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 132 Judiciary on S.B. No. 1217

The purpose of this bill is to authorize the county prosecutors to initiate civil proceedings under chapter 842, Organized Crime, Hawaii Revised Statutes.

Presently, the initiation of such proceedings is vested solely in the Attorney General.

Your Committee finds that organized crime is oftentimes statewide in scope and therefore, should be prosecuted by the Attorney General, whose authority extends throughout the State. However, not all acts proscribed by chapter 842 require prosecution by the Attorney General; in such circumstances, the county prosecutors could bring such actions as effectively as the Attorney General.

Your Committee amended the bill to provide for county prosecution of civil remedies under chapter 842 with the prior consent of the Attorney General. The appropriation provision of the bill was deleted as such actions by the county prosecutors will not require additional staff; and further, the decision to seek approval from the Attorney General to pursue such civil remedies will rest solely with the counties.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 1217, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1217, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 133 Judiciary on S.B. No. 3

The purpose of this bill is to appropriate funds for the 1983-1985 fiscal biennium expenditures for the Judiciary.

Your Committee has reviewed the Judiciary's total budget request of \$40,243,606 in fiscal year 1983-1984 and \$41,640,166 in fiscal year 1984-1985.

In view of our State's economy and the necessity to curtail our state expenditures, your Committee has amended the bill to appropriate \$35,895,831 for fiscal year 1983-1984 and \$37,242,719 for fiscal year 1984-1985. In addition, a total of \$17,870,000 has been appropriated for the fiscal biennium for various judicial capital improvement projects.

Your Committee has also provided funds to aid in the prevention of juvenile delinquency through the funding of juvenile intake agencies on the neighbor islands, juvenile diversion activities programs, and for a trial program for hard-core juvenile delinquents to determine the viability of a program called Vision Quest. In addition, your Committee has provided funds to expand programs to allow adult offenders to be placed in private agencies providing programs for alternatives to incarceration.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3, S.D. 1, and be referred to the Committee on Ways

and Means.

Signed by all members of the Committee.

SCRep. 134 Judiciary on S.B. No. 634

The purpose of this bill is to grant witnesses and victims a basic bill of rights and establish a victim/witness advocacy unit which will provide support services to them.

The victims and witnesses of crime have been largely ignored as the "forgotten clients" of the criminal justice system. Not only must they endure pain, fear, and anxiety as the natural aftermath of the commission of a crime, but also suffer through the bewilderment, frustration, and impersonal nature of the criminal justice system itself. As a result, these citizens, who are attempting to perform their moral and civil duty to the community, often regret having participated in bringing a criminal to justice.

Your Committee believes that action must be taken to protect victims and witnesses and to encourage them to participate in the prosecution of crimes. The creation of a basic bill of rights for victims and witnesses and the establishment of a victim/witness advocacy unit to provide services for them is long overdue.

As drafted, the bill applied to the victims and witnesses of all offenses covered by the Penal Code. Such an application is not practical because of the sheer volume of cases. Your Committee narrowed the scope of the bill to provide for the persons in the greatest need of assistance and protection, the victims and witnesses of offenses against the person.

Your Committee also amended the bill to designate the Criminal Injuries Compensation Fund as the sole recipient of the fines collected from persons convicted of or who plead guilty or nolo contendere to crimes and violations. The provision, which would have divided the fines between the fund, the Attorney General and the county prosecutors, was deleted.

Your Committee also made other technical, nonsubstantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 634, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 634, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 135 Judiciary on S.B. No. 1192

The purpose of this bill is to maintain the Hawaii Crime Commission in the Office of the Lieutenant Governor for administrative purposes until June 30, 1984, and to provide for four year terms for the commission members.

Your Committee finds that the Commission serves as a monitor of the state criminal justice system and should be allowed to continue through June 30, 1984.

Your Committee amended the appropriation provisions of the bill to provide a nominal sum. Additionally, nonsubstantive technical amendments were made.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1192, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and A. Kobayashi.

SCRep. 136 Judiciary on S.B. No. 68

The purpose of this bill is to consolidate the agencies in the Department of Social Services and Housing and the Judiciary that are involved with adult and juvenile offenders under the Department of Corrections, which is established by this bill.

Your Committee finds that presently, the correctional functions are bifurcated between the Department of Social Services and Housing and the Judiciary and

therefore, the underlying philosophies and policies are at times incongruous. This lack of coordination reduces the efficiency and effectiveness of the correctional process.

Your Committee made the following amendments to the bill:

1. On page 2, added to the duties of the department the systematic analysis of present and proposed programs, the qualification for acceptance, disbursement or utilization of private or federal monies and the preparation and submission of an annual report and such other reports as requested by the Governor.
2. On page 8, added the requirement that the county police chiefs, county prosecutors and court personnel notify all victims of the Criminal Injuries Compensation Act and the possibility of restitution by the defendant.
3. Placed the responsibility of pre-sentence diagnosis and report with the Intake Service Center (the Intake Service Center presently must also do the pre-trial reports).
4. Your Committee also made other technical, nonsubstantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 68, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 68, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 137 Consumer Protection and Commerce on S.B. No. 818

The purpose of this bill is to grant tax relief to registered travel agents as defined in Chapter 468K, Hawaii Revised Statutes, who are presently required to pay a four per cent excise tax on commissions.

Your Committee heard testimony on behalf of the travel industry to the effect that travel agents are unfairly burdened by the four per cent excise tax because it cannot be passed on to customers. It was noted that insurance agents, who similarly cannot pass on the excise tax to customers, are granted a tax rate of .15 per cent.

The Department of Taxation submitted testimony in opposition to the bill on the basis that granting reduced general excise tax rates to selected groups is confusing and incongruous. The Director of Taxation noted that the general excise tax is not a sales tax but a tax on gross receipts for the privilege of doing business. He further testified that granting reduced tax rates to certain groups is inequitable to other taxpayers who are not granted preferential treatment.

Your Committee is in agreement that travel agents should be granted a reduced tax rate because unlike other businesses subject to the tax, they are unable to pass on the tax to consumers. However, your Committee is well aware that this decision on taxation is ultimately best made by the Committee on Ways and Means.

Your Committee made technical nonsubstantive changes to conform the bill to recommended legislative drafting format.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 818, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 138 Consumer Protection and Commerce on S.B. No. 552

The purpose of this bill is to amend chapter 235, Hawaii Revised Statutes, to conform to section 269 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which amends the Internal Revenue Code to provide that as of January 1, 1983, real estate agents and direct sellers will not be treated as employees for federal tax purposes if three conditions are met:

- (1) the salesperson must be a licensed real estate agent or a "direct seller" as

defined in TEFRA;

- (2) substantially all of that person's remuneration for services performed must be directly related to sales or other output rather than to the number of hours worked; and
- (3) there must be a written agreement between the salesperson and the individual for whom the salesperson works, and it must provide that the salesperson will not be treated as an employee with respect to such services, for federal tax purposes.

Your Committee heard testimony from the Director of Taxation opposing the bill and stating that this change in the statute is not necessary because "present State provisions for determining whether a person is an employee concur with the substance of the proposed amendment."

The Hawaii Association of Realtors supported the bill on the ground that it would clarify the status of real estate agents and direct sellers for state tax purposes, and noted that there would be no resultant tax implications because "the Tax Department currently recognizes the independent contractor status and, therefore, each party is responsible for general excise taxes and income taxes on their portion of commission earned." The Director of Taxation concurred that the bill would have no effect on tax collections.

Your Committee concludes that conformity of the state and federal tax law as proposed by this bill would serve a useful purpose and should be accomplished, and it notes that the accomplishment would not bear upon tax revenues.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 552 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 139 Consumer Protection and Commerce on S.B. No. 1338

The purpose of this bill is to address concerns expressed by the Legislative Auditor's Sunset Evaluation Report on the Real Estate Commission.

Your Committee amended this short form bill to insert the following substantive provisions:

- (1) Deletion of the good character requirement of section 467-8;
- (2) Deletion of the residency requirement of section 467-9.5;
- (3) Insertion of a housekeeping provision to specify the Real Estate Commission's authority to establish deadlines for submission of applications;
- (4) Addition of the power of the Commission to impose other requirements as conditions for restoration of a license; and
- (5) Substitutions of new ceiling amounts (\$50,000 amount recovery per transaction and \$100,000 per licensee) that may be recovered from the Real Estate Recovery Fund.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1338, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1338, S.D. 1, and be recommended to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee.

SCRep. 140 (Majority) Consumer Protection and Commerce on S.B. No. 238

The purpose of this bill was to prohibit deficiency judgments in foreclosure actions.

Your Committee heard testimony from the Hawaii Banking Association and the Mortgage Bankers Association in opposition to this measure. Their testimony stated

that eliminating or restricting the right on the part of mortgagees to obtain deficiency judgments would decrease the number of mainland investors willing to purchase Hawaii loans.

Your Committee finds that the availability of deficiency judgments is one of the factors which out of state investors consider when determining in which states to invest. Further, much of the money used for mortgages in Hawaii, particularly for mortgages made by commercial banks and mortgage companies, comes from capital surplus areas outside the State.

Upon balancing the legitimate interests of mortgagees and the need for protection of mortgagors, your Committee amended the bill to allow deficiency judgments upon the condition that where the foreclosing mortgagee or seller purchases the property at the foreclosure sale and subsequently resells the property for an amount in excess of all costs of reselling the property and maintaining the property prior to the resale, that amount be credited towards a reduction of the deficiency judgment.

The bill was also amended on page 1, line 13, by deleting the phrase "occupied, entirely or in part, by the purchaser" and inserting in its place the phrase "occupied by the purchaser as the purchaser's principal dwelling". The purpose of this amendment is to clarify that the deficiency judgment credit only applies to owner-occupants as opposed to one who purchases a home for speculative purposes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 238, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 238, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Holt.
Senators Chang, Carpenter and B. Kobayashi did not concur.

SCRep. 141 Housing and Urban Development on S.B. No. 197

The purpose of this bill is to allow the Hawaii Housing Authority to issue up to \$75 million in taxable revenue bonds to finance the acquisition of the fee title to leasehold properties converted under the Land Reform Program.

The Authority has converted approximately 5,500 leasehold lots and there are currently 7,100 lots in the conversion process. The Authority estimates that approximately \$225 million will be needed to finance the lots undergoing conversion and \$55 million will be needed to finance the lots already converted as most are under short-term agreements of sale with landowners.

For a variety of reasons, relatively few loans have been made by local lenders to lessees to finance the purchase of the leased fee interest. The primary reason is the inability of the lenders to "sell" these loans in the secondary market. Although the Federal National Mortgage Association (FNMA), a secondary market purchaser, has recently initiated a direct purchase program, it is too soon to predict whether this FNMA program will be acceptable to lenders. The program established by this bill is viewed as a "stand-by" to be initiated if local lenders and FNMA do not provide the funds needed to make loans to lessees.

The Authority will serve as a conduit between lenders and the securities marketplace. Newly originated mortgage loans will be packaged into a taxable mortgage security which will be sold to investors throughout the United States. These investors will serve to provide new capital funds needed for the implementation of leasehold conversions.

According to Salomon Brothers, Inc., investment banker to the Authority, this program will have no direct effect upon the State's ability to raise moneys from the sale of general obligation bonds or revenue bonds because taxable securities, as opposed to tax-exempt securities, will be issued: the State and the Authority are competing for two distinct segments of the bond market.

Your Committee has amended the bill to delete Section 2, which authorizes the issuance of bonds in an aggregate amount of \$75 million.

Your Committee has also amended the bill to repeal section 516-45, Hawaii Revised Statutes, which allows general obligation bonds, as authorized by the legislature, to be issued by the Director of Finance. Since the state bond counsel has stated that he will not issue an opinion to allow general obligation bonds to be used for the

program until the constitutional issues of the Land Reform Act are resolved, this section of the Act is unnecessary, especially if these taxable revenue bond provisions are enacted.

Your Committee has also amended the bill to amend section 516-33.5, Hawaii Revised Statutes, by allowing the Hawaii Housing Authority (HHA) to collect deposits from lessees at the time they apply to purchase the fee simple title to their residential leasehold properties. Currently, the statute prohibits the Authority from collecting the deposits made by the lessees more than one hundred eighty days prior to the date of condemnation. Since the statutes prohibit HHA from collecting deposits at the time the applications are received, the Authority must advance any costs incurred until it determines that the condemnation action will occur within six months. The conditioning of the payment of the deposit on a future event is an ambiguous construction of statutory drafting; thus, your Committee has amended the bill to allow the collection of deposits when applications are received.

The Land Reform Program is intended to be self-supporting, as is expressed in section 516-32, Hawaii Revised Statutes. Your Committee has also amended section 516-33.5, to allow deposits to be applied to "any other cost" the Authority has incurred, such as administrative overhead. The Authority has informed the Committee that during the period from the receipt of application to the date of condemnation, ten per cent to fifteen per cent of the applicants may withdraw their applications. This has resulted in an increase of the pro rata cost for expenses incurred which must be distributed among the remaining lessees. This amendment clarifies that these deposits may be applied for administrative and other costs incurred, to assure that those lessees who drop out are assessed their fair share, and that the Authority is reimbursed for these costs.

The February 1982 Legislative Auditor's Management Audit of the program indicated that recent charges to applicants who had withdrawn were greater than charges previously made to lessees who had completed the entire conversion process. While the Authority has recently established more fiscal control to more accurately quantify the administrative costs of the program, your Committee is concerned that lessees who withdraw may not be willing to pay the pro rata costs incurred up until the time of their withdrawal, which costs may exceed the amount of the deposit. Thus, your Committee has amended section 516-33.5, Hawaii Revised Statutes, to provide that the \$500 statutory limit on the deposit be eliminated. The intent of this amendment is to assure that the deposit amount (to be established by the Authority pursuant to the Administrative Procedure Act), is sufficient to cover the pro rata incurred costs of those who withdraw prior to condemnation. Although the lessees may view this increase in the amount of the deposit as a hardship, the increase will protect them from those who withdraw.

Section 516-33.5, Hawaii Revised Statutes, has also been amended to provide that the Authority shall incur no liability for any of the deposits collected. This provision also was addressed in the Auditor's Report, and this amendment clarifies the Authority's position with regard to these funds.

Your Committee has also amended section 516-44, Hawaii Revised Statutes, to provide that any interest earned on funds deposited into the fee simple residential revolving fund shall accrue to the fund, and that the funds shall be used for administrative costs and to reimburse the general fund for any statewide costs of the program, such as costs incurred in defending the constitutionality of the Land Reform Act. This issue was addressed in the aforementioned Auditor's Report. Additionally, since general obligation bonds will no longer be provided under this chapter when section 516-45, Hawaii Revised Statutes, has been repealed by this bill, reference to these bonds has been eliminated from this section.

Your Committee recommends that the Authority explicitly disclose to applicants under this program that the deposits which are collected may be retained by the Authority to pay for the pro rata costs incurred if the applicant withdraws. Additionally, your Committee recommends that the Authority specifically disclose that no interest shall be paid to applicants for the deposits made.

Minor grammatical amendments also have been made.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 197, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 197, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 142 Housing and Urban Development on S.B. No. 252

The purpose of this bill is to amend Section 205-4(h), Hawaii Revised Statutes, by requiring the State Land Use Commission to give priority to proposals to reclassify agricultural districts to urban districts that will provide a significant proportion of affordable housing over proposals for other types of residential development. "Affordable housing" is defined as dwelling units within the sales price limits used by the Hawaii Housing Authority under the Hula Mae Program.

Although the Hawaii State Constitution mandates the protection of agricultural lands, the City Council of the City and County of Honolulu testified that according to The Hawaii State Plan Survey, July 1981, the public prefers alleviation of high housing costs even at the expense of some agricultural lands.

The Department of Planning and Economic Development, the City Department of Housing, the Hawaii Housing Authority, the Hawaii Building and Construction Trades Council, AFL-CIO, the Consumer Housing Task Force, and the City Council testified in support of the intent of the bill. The use of opportunities and incentives to provide affordable housing in the State Land Use redistricting process has been discussed in Implementing Action A(2)(c) of the Housing Functional Plan.

The State Land Use Commission presented testimony stating no objection to the bill. The Commission expressed concern that if single interest policies (such as agriculture, transportation, historic sites, etc.) were all allowed to be expressed in Chapter 205, HRS, the system would be unmanageable. The Commission suggested that the policy contained in this bill would be more appropriately contained in the State Plan or Housing Functional Plan.

The Hawaii Resort Developers Conference presented testimony suggesting that it is more appropriate that the counties handle this concern.

Oceanic Properties, Inc. presented testimony raising various technical points regarding language in the bill.

Your Committee has amended the bill to substitute the term "special consideration" for "priority" inasmuch as under the quasi-judicial proceedings of the Land Use Commission for rezoning, each application is reviewed on its own merits. Your Committee has also amended the bill by moving the amendatory language to Section 205-16.1 from Section 205-4.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 252, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 252, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 143 Housing and Urban Development on S.B. No. 327

The purpose of this bill is to appropriate \$12 million for the rental assistance fund established by Act 111, Session Laws of Hawaii, 1981.

Act 111 was created for the purpose of providing rental housing for low and moderate income families and individuals of low and moderate income by developing a rental assistance fund to be administered by the Hawaii Housing Authority. The aggregate principal sum in the fund is to be invested by the authority with the earnings on the investment applied to payments under the rental assistance contract.

High rental rates due to the scarcity of rental units is a very real and pressing problem in the State of Hawaii. Coupled with diminishing federal support, it is unlikely that any new projects for low and moderate income families will be initiated in any timely manner to alleviate the problem. Statistics from the U. S. Census show that in the City and County of Honolulu, 23 per cent of the households pay in excess of 25 per cent of their income for rent, 18 per cent of the households pay more than 30 per cent of their income for rent, and about 8 per cent pay more than 50 per cent of their income for rent.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 327 and recommends that it pass Second Reading and be

referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 144 Housing and Urban Development on S.B. No. 462

The purpose of this bill is to provide an exemption from taxation on capital gains from the sale of real property to non-profit housing corporations, government housing agencies, or limited equity housing cooperatives, if the real property will be used by these organizations for low-and moderate-income households.

Presently, proceeds from the sale of rental property held by the taxpayer for more than one year must be reported pursuant to Internal Revenue Code section 1231, which applies to the State without modification. Your Committee has received testimony supporting this bill from Hawaii Centers for Independent Living, Consumer Housing Task Force and Kokua Council for Senior Citizens. These groups have expressed a state-wide need for low-and moderate-income housing and feel the tax incentive will result in the creation of more affordable housing units.

Your Committee has amended the bill to cover newly constructed rental projects as well as existing buildings and by eliminating reference to "capital". Additionally, your Committee has amended the bill to require that the purchaser of the building certify that the use complies with the provisions of the bill. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 462, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 462, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 145 Housing and Urban Development on S.B. No. 608

The purpose of this bill is to extend the Rental Assistance Program, established by part III of Chapter 356 of the Hawaii Revised Statutes to include Federal housing rental projects.

Presently, only State funded projects administered by the Hawaii Housing Authority may be included in the Rental Assistance Program.

Your Committee finds that allowing Federal projects to be included in the definition of "eligible project" will not excessively burden the program and will, in fact, enable the program to benefit more people.

Your Committee has amended the bill by changing the reference to The National Housing Act of 1949 to The National Housing Act of 1934 on page 1, line 8 in order to include assistance from both the Department of Housing and Urban Development and the Farmers Home Administration. The 1949 Act allows assistance only from the Farmers Home Administration.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 608, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 608, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 146 Housing and Urban Development on S.B. No. 681

The purpose of the bill is to appropriate \$25 million from the State's general obligation bond fund to be paid into the dwelling unit revolving fund (DURF).

This sum is to be expended by the Hawaii Housing Authority at a rate of interest lower than conventional rates for the construction of low- and moderate-income housing units which meet the qualifications specified under chapter 359G, Hawaii Revised Statutes.

The Hawaii Housing Authority testified that as a result of federal requirements, the State will be prohibited from issuing general obligation bonds for housing

projects after 1983.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 681 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 147 Housing and Urban Development on S.B. No. 683

The purposes of this bill are to (1) provide general excise tax exemptions to persons and entities who contribute toward the development, construction, or occupancy of government assisted housing; and (2) to provide that for a nonprofit organization qualified under federal housing law, the income earned and obligations issued which are declared to be exempt from federal taxation shall also be exempt from all state taxation.

More specifically, the bill does the following:

(1) Expands the general excise tax exemption (currently enjoyed only by construction contractors) to include all participants who contribute toward the planning, design, financing, construction, sale, lease, or rental of government assisted housing;

(2) Expands the applicability of qualifying housing (from only multi-unit property) to single family, multiple-unit, or mixed use residential property;

(3) Expands the program applicability (from three specifically cited outdated federal programs) to all state and federal government assistance programs, to obviate continual statutory amendment in accommodating future federal public law and federal rule amendments;

(4) Provides for the verification of claims by the Hawaii Housing Authority (HHA) (such claims will be reviewed by the HHA to verify that eligible entities applying for such exemptions are receiving government assistance for the development, construction, financing, sale, lease, or rental of housing projects; it is not the intent of your Committee to duplicate or infringe upon the statutory powers and duties of the Department of Taxation, but to assist that Department's operations with the Authority's expertise); and

(5) Amends the existing general excise tax exemption authority provided to the Hawaii Housing Authority for clarity and consistency with the amendments of section 237-29, Hawaii Revised Statutes.

These provisions are desirable, not only to decrease the cost of deliverable government housing, but to stimulate private sector participation in government-assisted housing development. Private sector participation is an integral element in federal and state housing programs. This is best exemplified in the processes and requirements of the federal Section 8 housing assistance program which requires private sector housing development for government housing targets in specific areas. These government assistance programs, however, are in some instances insufficient to foster wide participation and acceptance by the private sector due to current economic and housing market conditions. Additionally, private sector development of rental housing is almost nonexistent due to high capital and production costs, and for this reason, government assistance is highly desirable.

To alleviate private sector nonparticipation, housing development incentives are necessary. We must attract competent development entities to participate in existing government housing assistance programs. The incentives contained in this bill will reduce the price consumers pay for such housing via current limitations and restrictions on profit-making in government assisted housing.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 683 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 148 Housing and Urban Development on S.B. No. 420

The purpose of this bill is to provide for a land readjustment process which will

serve as a vehicle for the improvement and redevelopment of urban areas by private landowners.

Currently, many private landowners find it difficult to rehabilitate their dwelling units because their property lot sizes may be irregular in shape or under the minimum allowable size for development, and the costs of rehabilitation may be prohibitive on an individual basis.

Under the proposed bill, private landowners may form a land readjustment association which may assemble, clear, develop, rehabilitate, and reapportion a tract of land. The association, which must consist of three or more adults, shall become a corporate body with articles of incorporation and at least one director for every ten landowners.

When a land readjustment association has secured the membership of more than 50 per cent of the landowners within its membership area, it will petition the authority, defined as the Hawaii Housing Authority or any county, to designate the area as a land readjustment district. The petition shall be accompanied by a preliminary development plan which will conform to the state and county regulations applicable to the district.

Upon approval of the petition and designation of a land readjustment district, the authority will appoint a representative trustee who will serve as a director in the association and will be responsible for coordinating the implementation of the development plan. Participating owners convey their property into a trust and the appointed trustee will ensure the proper execution of that trust. The trustee's compensation will be considered as a cost of the project.

Once all the property has been assembled, the authority, in mutual agreement with the association, appoints an appraiser to determine the independent values of the properties held in trust. With the appraised value rounded off to the nearest \$500, a trust beneficiary will be accorded one pro rata share for each \$500 value of each parcel. The association will also be responsible for relocation assistance, the cost of which will be considered as a project expense, to all tenants displaced by the readjustment process.

Upon completion of the project and the conveyance from the trustee, each association member will receive the member's pro rata share of the land readjustment district in accordance with the development plan.

Under the current proposal, nonparticipating persons within the district could have a lien placed on their property for the pro rata share of any improvements provided by the association which benefit them. Furthermore, the association may acquire the private real property, by negotiated purchase, from the unwilling landowners. For the protection of those landowners unwilling or unable to participate in the land readjustment process, your Committee has amended the bill by deleting sections -13 and -14. Your Committee has also made two typographical corrections to the bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 420, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 420, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 149 Housing and Urban Development on S.B. No. 686

The purpose of this bill is to appropriate \$2 million out of the general revenues of the State for the fiscal biennium 1983-85 to fund the downpayment loan program administered by the Hawaii Housing Authority pursuant to sections 359G-16 to 359G-19, Hawaii Revised Statutes.

The downpayment loan program allows the Authority to make a downpayment loan to a qualified borrower of \$15,000 or 30 per cent of the purchase price of the property, whichever is less, with the term of the loan not to exceed 40 years. The Authority's position is secured by a second mortgage on the property.

One of the larger problems for the first time home buyer is finding the moneys to serve as a downpayment. The Hawaii Housing Authority testified that as of January 31, 1983, the Authority has made 211 loans to home buyers who have purchased

homes developed under the Act 105 program with the average loan amount being \$3,436 and an interest rate ranging from 7 per cent to 9.5 per cent. The appropriation made by this bill will enable the Authority to make additional downpayment loans to qualified borrowers.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 686 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 150 Housing and Urban Development on S.B. No. 965

The purpose of this bill is to amend section 359-151, Hawaii Revised Statutes, to allow moneys in the housing development fund for to be used for "government assistance programs" as defined in the bill.

Under current statutes, the fund, which was established by the Legislature in 1968 is limited to use by non-profit entities for loans to provide for the planning, development, and initial costs of federally funded projects. The bill allows moneys in the fund to be used for loans for front-end expenses of State or county projects, as well as federal projects.

Your Committee has amended the bill to specify that these loans can be made only to non-profit entities, and to redesignate the fund as the Hawaii development revolving fund. The bill has been further amended to make technical changes which have no substantive effect.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 965, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 965, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 151 Housing and Urban Development on S.B. No. 966

The purpose of this bill is to provide more flexibility by allowing the maximum qualifying income limits under the Hula Mae program to be increased according to a prescribed formula if the annual interest rate on the Hula Mae loan exceeds ten per cent.

The intent of the bill is to allow qualification restrictions to be more sensitive to market forces, rather than be arbitrarily fixed and insensitive to relative demand.

Under this bill, the Hawaii Housing Authority may raise Hula Mae program income limits by four per cent for every one-half percentage point increase over an annual interest rate of ten per cent. The bill also deletes the requirement that the adjusted household income of a family of one not exceed one hundred per cent of the median income.

Your Committee has amended the bill to specify the publication date of the median family income by the U.S. Department of Health and Human Services as November 1980. Your Committee has also amended the method of computation of the four per cent increase as applicable to families of other than four persons, for the purposes of clarifying that method.

Your Committee is in accord with the intent and purpose of S.B. No. 966, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 966, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 152 Agriculture on S.B. No. 385

The purpose of this bill is to appropriate funds for sugar research and development performed by the sugar industry.

The Department of Agriculture contracted with the sugar industry during fiscal year 1981-1982 for research and development as authorized by the 1982 Legislature.

This bill appropriates funds for fiscal year 1983-1984 to continue the sugar research and development projects by the sugar industry.

Your Committee adopted the recommendation of the Department of Agriculture to amend the bill by changing the expending agency from the Department of Agriculture to the Governor's Agriculture Coordinating Committee. Your Committee also amended the bill by changing the amount of the appropriation from \$2,300,000 to \$2,242,500.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 385, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 385, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 153 Agriculture on S.B. No. 387

The purpose of this bill is to provide funds out of the general revenues of the State for the promotion of the pineapple industry.

The Department of Agriculture in conjunction with the Pineapple Growers' Association of Hawaii are currently involved in a campaign to promote Hawaiian grown pineapples. The 1982 Legislature appropriated funds for this program which resulted in a 56 per cent sales increase over 1981. The requested appropriation will continue this campaign.

Your Committee has adopted the recommendations of the Department of Agriculture by amending the expending agency from the Department of Agriculture to the Governor's Agriculture Coordinating Committee. Your Committee has also amended the requested sum of the appropriation from \$200,000, to \$195,000.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 387, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 387, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 154 Agriculture on S.B. No. 433

The purpose of this bill is to correct a technical error in Act 253, Session Laws of Hawaii, 1982, to allow animal and poultry producers to be taxed at the 0.5 per cent rate.

Act 253, Session Laws of Hawaii, 1982, extended the 0.5 per cent excise tax rate to agricultural or aquacultural producers, and did not include animal and poultry producers, contrary to the intent of the Act.

This bill corrects the technical error by extending the wholesale rate of one-half of one per cent on sales to all "producers".

Your Committee has adopted the recommendation of the Tax Foundation of Hawaii by amending Section 237-5, Hawaii Revised Statutes, to delete all reference to animal or poultry. The intent of the amendment is to include all farm products, including animal and poultry products, within the meaning of the term "agricultural products". Your Committee also amended the bill to take effect retroactive to January 1, 1983.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 433, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 433, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 155 Agriculture on S.B. No. 513

The purpose of this bill is to allow the extension of leases issued by the Department of Land and Natural Resources.

Current law permits the extension of agricultural, aquacultural, or special live-stock leases in order to enable the lessees to obtain financing to make improvements to the premises. However, extensions are not permitted to lessees who have invested substantial capital in the property but do not require additional financing, which in effect penalizes the lessee for his efficiency.

Your Committee finds that allowing such leases to be extended will result in greater efficiency in use of the lands which, in turn, will provide a higher tax base and greater security for the affected work force.

This bill permits the extension of agricultural, aquacultural, or special livestock leases and specifies that the aggregate of the original term and any extension shall be for not more than fifty-five years.

Your Committee has adopted the recommendation of the Department of Agriculture and amended the bill by deleting mariculture from the type of lease subject to this bill. Currently, the department has not issued any maricultural leases.

The bill was also amended to allow the Board of Agriculture greater flexibility in setting forth any terms or conditions for the demised lands.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 513, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 513, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 156 Agriculture on S.B. No. 716

The purpose of this bill is to clarify the intent of an appropriation in Act 263, Session Laws of Hawaii 1982, relating to capital improvement projects.

Act 263, section 2, item I.B.1, Session Laws of Hawaii 1982, appropriates \$75,000 for the Agricultural Training Facilities Program, Hawaii County Economic Opportunity Council, Island of Hawaii. However, there is no designation for the use of the appropriation.

This bill specifies that the moneys are to be used for site development and land clearance for the Agricultural Training Facility Program.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 716 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 157 Agriculture on S.B. No. 1027

The purpose of this bill is to provide interim loans to farmers and ranchers who have been unable to obtain adequate immediate relief for Hurricane Iwa damage under existing relief programs.

There are no loan provisions in the present statutes which will allow for interim disaster loans for farmers and ranchers. Section 155-3, Hawaii Revised Statutes is a restriction clause on all Department of Agriculture loans. Loans are only authorized by the Department of Agriculture if such loans cannot be made by the Farmers Home Administration, the Production Credit Association of Hawaii, the Federal Land Bank Association of Hawaii, or the Sacramento Bank for Cooperatives, and by two private lenders.

With Presidential declaration of Kauai and Oahu as disaster areas, disaster related Federal programs including disaster loans through the Farmers Home Administration (FmHA) and the Small Business Administration (SBA) have been made available to Hurricane Iwa victims. However, the loan applications may take as much as two years to process and in the meantime Hurricane Iwa victims are suffering a severe cash flow problem.

This bill will provide interim disaster loans for farmers and ranchers who were disaster victims of Hurricane Iwa.

As received by your Committee, this bill established a relief fund to be administered by the Department of Agriculture to make loans to qualified farmers and ranchers who have suffered losses as a result of Hurricane Iwa. Your Committee concludes that rather than establishing a new loan program, funds can be made available to farmers more expeditiously by utilizing the existing mechanism for disaster relief loans under section 155-9(4), Hawaii Revised Statutes. Accordingly, the bill has been amended to provide an appropriation to the Department of Agriculture for the purpose of making loans under that section.

A concurrent amendment was made to the bill to include within its provisions an amendment to section 155-3 to remove the restrictions mentioned above on class D disaster loans made under section 155-9(4) so farmers may obtain such loans while applications for federal or private loans are being processed. These interim loans are to be repaid when federal or private loans are obtained.

Your Committee also amended the bill to reduce the amount of the appropriation from \$4,000,000 to \$1,000,000.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1027, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1027, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 158 Human Resources on S.B. No. 89

The purpose of this bill is to permit the Director of the State Immigrant Services Center to contract for services.

Testimony by the Director of the State Immigrant Services Center indicates that the existing statutes do not expressly allow the Center to contract for services. Testimony received from the Center indicates that the permission to contract for services will enable the Center to carry out its function more efficiently and effectively.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 89 and recommends that it pass Second Reading and be referred to the Committee on Youth and Elderly Affairs.

Signed by all members of the Committee.

SCRep. 159 Human Resources on S.B. No. 208

The purpose of this bill is to update and clarify existing state law with respect to the Federal program of Aid to Families with Dependent Children (AFDC).

This bill repeals section 346-53(c) and section 346-55, Hawaii Revised Statutes, because those sections contain outdated material relating to the receipt of federal funds in providing assistance to children. As an example, section 34-55(2) provides for assisting children up to age eighteen years and up to twenty-one years if regularly attending school. This is inconsistent with the federal AFDC law which since October, 1981, changed the age eligibility to eighteen years.

Moreover, the provisions to be repealed are duplicative and are no longer needed to provide a statutory basis for the federal AFDC program. Section 346-7, relating to acceptance of grants-in-aid or outright grants from the federal government and section 346-14(6) relating to cooperation with the federal government for carrying out the purposes of the Social Security Act presently provide an adequate statutory basis.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 208 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep 160 Human Resources on S.B. No. 505

The purpose of this bill is to permanently establish a transition from school to work program within the Department of Labor and Industrial Relations.

Many of Hawaii's young people who are preparing to make the transition from school to the labor market are in need of transitional services including social and psychological counseling, training, information, career counseling, health sources, planning, and actual work experience.

Your Committee finds that the Quick Kokua programs in Farrington and Waianae High Schools and the Career Resource Centers at Kaimuki and Waialua High Schools, both administered by the Department of Labor and Industrial Relations, have been effectively providing the comprehensive transitions services mentioned above. Your Committee further finds that there is a continuing and wide-spread need for such services to insure that young people throughout the State have access to educational and career opportunities which facilitate successful entry into the labor force.

This bill establishes a Statewide Transition To Work System within the Department of Labor and Industrial Relations using Quick Kokua and Career Resource Center programs as specific community models. The bill will benefit Hawaii's youth by strengthening existing transitional programs through the creation of a common administration umbrella, and by facilitating interdepartmental cooperation among the Department of Education, the Department of Health, and other agencies to the benefit of Hawaii's Youth.

Your Committee has amended the bill by making technical changes to conform to recommended drafting style.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 505, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 505, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 161 Human Resources on S.B. No. 540

The purpose of this bill is to clarify the Department of Social Service and Housing's responsibility to provide child care services and to appropriate moneys to provide such services.

Presently, section 346-14(2), Hawaii Revised Statutes, requires the department to "establish, extend, and strengthen services for the protection and care of neglected children and children in danger of becoming delinquent." However, your Committee finds that this mandate is vague and could lead to curtailment of vital services to some needful children in the community in times of departmental budget constraints.

This bill more clearly sets forth the department's obligation to provide child care services, not only to neglected and predelinquent youngsters but also to children who are classified as "developmentally delayed."

Your Committee has amended the bill by adding the words "and when deemed required by the department" after the word "department" in line 15, page 4 of the bill. The purpose of this amendment is to allow the Department of Social Services and Housing greater discretion in carrying out its mandate of providing child care services. Your Committee has further amended the bill by deleting Section 2 which called for an appropriation to carry out the purposes of the Act.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 540, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 540, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 162 Human Resources on S.B. No. 828

The purpose of this bill is to establish an inter-agency coordination committee for the development and implementation of a statewide occupational information system (OIS).

Presently there are many state agencies which provide some type of occupational and career information on an individual basis. The Federal vocational educational law mandates the establishment of a statewide occupational information system.

This bill would provide for the development and delivery of occupational and career information on a statewide basis and provide for the coordination of this information by the Hawaii state occupational information coordinating committee.

Your Committee finds that there is a need for all agencies involved in the production and use of occupational and career related information to be well coordinated in order to strengthen the planning of programs and delivery of services to Hawaii's people.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 828 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 163 Human Resources on S.B. No. 1054

The purpose of this bill is to make the pilot project to job sharing in the Department of Education a permanent job sharing program for that department.

The pilot project for job sharing was created by Act 150, Session Laws of Hawaii 1978, and was amended by Act 134, Session Laws of Hawaii 1980, Act 105, Session Laws of Hawaii 1981, and Act 128, Session Laws of Hawaii 1982. During this testing period the job sharing project was found to be workable and in the best interest of the educational system of the State. Your Committee is in support of converting the pilot project into a permanent program for the department.

Your Committee held a public hearing on this bill and heard testimony in support of this bill from the Department of Education and from the Hawaii State Teachers Association.

Your Committee has amended the bill as follows:

(1) Permitting job sharers to contract only for one year at a time, rather than one or more years. The employee will be given the option to renew the contract for the following year, subject to approval by the immediate supervisor and personnel officers of the Department.

(2) By providing flexibility to the department in filling a vacancy by either recruiting another person, or by increasing the remaining half-time job sharing person to full-time basis.

(3) By changing the effective date to July 1, 1984.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1054, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1054, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 164 Human Resources on S.B. No. 1120

The purpose of this bill is to adjust the salaries of certain public officers of the State to conform to Act 129, Session Laws of Hawaii 1982.

Act 129, Session Laws of Hawaii 1982, provided salary adjustments of ten per cent effective July 1, 1981 and eight per cent effective July 1, 1982 for all State department heads and other public officers.

Your Committee finds that members of the Public Utilities Commission, the Labor and Industrial Relations Appeal Board, and the Hawaii Public Relations Board actually received less than a one per cent adjustment on July 1, 1982, instead of the eight per cent adjustment. No study or review has been made to justify treating these employees differently from other employees who received the full adjustment.

Your Committee further finds that the affected employees are the Chairman and members of the Hawaii Public Employment Relations Board; the Chairman and Commissioners of the Public Utilities Commission; and the Chairman and members of the Labor and Industrial Relations Appeal Board.

This bill corrects the inequity by adjusting the salaries of the effected employees by granting them the full eight per cent adjustment as contemplated by Act 129, Session Laws of Hawaii 1982.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1120 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 165 Consumer Protection and Commerce on S.B. No. 555

The purpose of this bill was to make the following changes in the various Department of Commerce and Consumer Affairs service fees: 1) increase the fee for an original certificate of compliance from \$1.00 to \$5.00, and additional copies from 25 cents to \$1.00; 2) establish a fee of \$15.00 for service of process upon corporations; 3) increase the fee for filing a certificate of registration of a print, label, or trademark from \$10.00 to \$25.00; and 4) increase fees for legal processes and notices from \$5.00 to \$10.00.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs that there is a need to increase the fees to recover the cost of services rendered as many of its fees have not been changed since the services were first instituted. The Department estimates that the proposed fee increases would recover an additional \$185,000 for the State.

Your Committee has amended the bill by adding a new section 5 which amends section 26-9(k), Hawaii Revised Statutes, to provide the Director with authority to increase or decrease the fees by rules in accordance with chapter 91. Sections 5 and 6 were respectively renumbered to 6 and 7. Your Committee finds that the Department should be given the authority to adjust fees to maintain a reasonable relationship between the fees and the costs of services provided without the necessity of seeking recurring statutory changes.

The bill was also amended to reflect the name change of the Department of Regulatory Agencies to Commerce and Consumer Affairs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 555, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 555, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano and Toguchi.

SCRep. 166 Consumer Protection and Commerce on S.B. No. 775

The purpose of this bill was to restate and clarify that the intent of the Legislature in enacting sections 294-6(a) and 294-36(b), Hawaii Revised Statutes, was, and still remains:

- (1) To deter persons from driving without motor vehicle insurance coverage not only through criminal penalties, but through a limitation on the ability of the uninsured motorist to recover for injuries in tort which is more stringent than the limitations placed upon those who have obtained the insurance coverage required by law; and
- (2) To prevent a person who is ineligible for no-fault benefits from bringing a civil action if the medical-rehabilitative limit is not reached within two years of the date of the motor vehicle accident.

The majority opinion of the Hawaii Supreme Court in *Joshua v. MTL, inc.* (#8177 December 29, 1982) misread the intent of the Legislature and may have removed all limits on the time in which an uninsured motorist may bring an action for recovery in tort. The effect of the decision is that those law abiding citizens who obtain coverage may not sue in tort under section 294-6(a)(2), Hawaii Revised Statutes, unless they reach the medical-rehabilitative threshold within two years of the last payment of no-fault benefits, while persons who have failed to obtain coverage can sue at any time without having to reach the threshold.

This interpretation flies in the face of justice, public policy, public safety, and fairness, and it is the purpose of this bill to eliminate this discrepancy.

The system of no-fault insurance established by Part I of chapter 294, can only be truly effective if all drivers participate to the extent required by law. This bill treats uninsured drivers more severely than those who obtain the legally required coverage with the specific legislative intent of encouraging participation by all drivers in the no-fault insurance system. Since the Legislature has provided for persons economically unable to afford insurance under the public assistance provisions of the no-fault law, there is no valid reason for persons not to have no-fault insurance.

After hearing testimony from the Insurance Division of the Department of Commerce and Consumer Affairs that uninsured motorists increase the cost of insurance for those who obtain the coverage required by law and also provide an unnecessary drain on public welfare resources, your Committee is in agreement that this bill adequately addresses the problem and should be adopted.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 775, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 775, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cayetano and Toguchi.

SCRep. 167 Government Operations and County Relations to S.B. No. 15

The purpose of this bill is to require the State and its political subdivisions to contract to the private sector all goods or temporary or intermittent activity services whenever it is cost-effective and does not concern public safety.

Presently there are many cases of government competition with private enterprise in retailing, printing, manufacturing, servicing and a variety of other areas.

Your Committee finds that the private sector provides a flexible work force wherein workers can be hired for the duration of the life of a contract and terminated upon completion, resulting in lower costs to the government. Further, this measure will broaden the State's tax base by generating taxes and licensing fees from the private sector. Private businesses will also benefit by receiving government contracts.

Upon consideration of this measure, your Committee finds that government agencies should have some degree of flexibility in contracting for services. Therefore, your Committee has amended the bill to delete the absolute prohibition of government agencies from engaging in activities offered by private enterprise. Instead, government agencies are given specific authorization to contract with private enterprise for goods and services when to do so would be cost-effective and the goods or services contracted for do not concern public safety.

Your Committee heard testimony from the Department of Social Services and Housing indicating the bill was too restrictive and would severely hamper programs for the blind and visually handicapped. There are approximately thirty blind and visually handicapped persons who are unable to or are not ready for competitive employment in the private sector, but are engaged in the manufacture and sales of products and services. In addition, the Corrections Division of the Department sells services to other State departments. These services are produced as a result of the rehabilitation programs of the correctional center. Your Committee has therefore amended the bill to allow these public agencies to continue their activities.

Your Committee has also amended the bill by amending the purpose clause to reflect the changes made in the bill, and to correct a typographical error.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 15, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 15, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 168 Government Operations and County Relations on S.B. No. 20

The purpose of this bill is to reduce the period allowed to the State and counties to pay for goods and services received.

Presently, the State and counties are allowed sixty days to pay for goods and services received. If payment is arbitrarily or erroneously withheld by the State or counties, interest at the rate of one percent per month on the principal amount is assessed against the State or counties.

Many small independent businesses who contract with the State and counties survive on a tight cash flow. When they are not paid promptly by the State or counties, difficulties arise in paying ordinary operating expenses and suppliers.

Your Committee has amended the bill to address the concerns of private business and to allow the State and counties time to realistically conduct business transactions by allowing the State and counties forty-five days to pay for goods and services received before any interest is assessed and thirty days for contracts requiring federal funds or approval.

The bill was also amended by adding two new sections to the bill which delete the requirement of submitting the original warrants and bills in specified business transactions with the State.

Presently, the State requires persons to whom the State is indebted, to submit the "original" and bill. Computers and display writers, however, do not produce copies which are designated "original". Consequently, business transactions in state government are unnecessarily delayed because of this outdated requirement.

This bill corrects this problem and promotes expeditious handling of government transactions.

Your Committee is in accord with the intent and purpose of S.B. No. 20, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 20, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 169 (Majority) Government Operations and County Relations on S.B. No. 442

The purpose of this bill is to eliminate free police escort services for funeral processions.

Presently, police departments are required to furnish free escorts for funeral processions.

This bill would allow special duty motorcycle police officers to charge a fee for escorting funeral processions.

Your Committee has adopted the recommendation of the police department of the City and County of Honolulu by amending the bill to eliminate the reference to "motorcycle" police officers. The purpose of this amendment is to allow greater flexibility in the escort service since motorcycle escorts are not always available.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 442, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 442, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 170 Government Operations and County Relations on S.B. No. 1175

The purpose of this bill is to provide language to county bond statutes necessary to accommodate federal requirements for registration of bonds, and to make other technical amendments.

Presently, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), as

amended, requires that all municipal bonds issued after June 30, 1983 be fully registered.

Your Committee finds that although the county general obligation bond statutes allow for the issuance of fully registered bonds, additional language must be enacted to provide for signing, exchanging, transferring, and replacing fully registered bonds.

Your Committee amended the bill to correct a typographical error.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1175, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1175, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 171 Culture and Arts on S.B. No. 1303

The purposes of this bill are to provide funds for the Ethnic Studies Oral History Project and for the construction of the Maui Community Arts and Cultural Center.

Your Committee amended the short form bill to insert substantive provisions. The bill, as amended, appropriates out of the general revenues of the State of Hawaii, the sum of \$220,000, or so much thereof as may be necessary, for fiscal years 1983-1985, for the Ethnic Studies Oral History Project.

Your Committee further amended the bill by providing an appropriation out of the general revenues of the State of Hawaii, the sum of \$3,500,000, or so much thereof as may be necessary for the construction of the Maui Community Arts and Cultural Center. The construction of the center would provide the residents of Maui with a location to present programs and workshop activities in the arts. The Maui County Council is also instigating a bond for \$2,700,000, to help fund construction costs.

Your Committee on Culture and Arts is in accord with the intent and purpose of S.B. No. 1303, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1303, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 172 Higher Education on S.B. No. 1253

The purpose of this bill is to amend existing law to raise the maximum limit on the University of Hawaii research and training revolving fund from \$1,000,000 to \$2,000,000 annually from indirect overhead sources generated by federal and other research and training contracts and grants.

Under current law, an annual maximum of \$1,000,000 in funds from various research and training contracts and grants is permitted to be deposited into the research and training revolving fund.

Raising the ceiling on the research and training revolving fund will increase the university's ability to compete effectively for extramural funds, with a concomitant increase in ability to attract distinguished faculty who can fully utilize these funds to conduct research and training programs. The presence of top-caliber faculty in turn will further attract extramural grants.

The quality of instruction at the University of Hawaii is largely dependent on the university's excellence in research. To assist the university in attaining prominence as a research institution, flexibility must be allowed in the use of seed moneys provided by the research and training revolving fund. Significant contributions have been made by the university's research and training activities in areas such as tropical agriculture, marine research, alternate energy research, astronomy, public health, chemistry, physics, and Asian and Pacific studies. Written testimony submitted by the university indicated that approximately \$15.00 in extramural funds is generated for each dollar of start up or seed money provided by the research and training revolving fund.

To further clarify the purpose of expenditures from the fund, your Committee amended the bill by adding the following phrase at the end of subsection 304-8.1(a):

"provided that in expending funds for the purpose of facilitating research and training, not less than twenty per cent of the annual amount deposited in this fund shall be expended for those activities which will result in direct economic, agricultural, environmental, or social benefits to the State and Pacific basin area."

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1253, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1253, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 173 Higher Education on S.B. No. 1255

The purpose of this bill is to establish an educational support and student services revolving fund at the University of Hawaii.

Presently, all tuition revenues are deposited in the state general fund.

This bill establishes a fund for educational support and student services. Twenty percent of all tuition revenues would be deposited into the revolving fund. The revenues would be used by the University to implement, develop, or improve continuing faculty and staff programs, alternative educational delivery systems, curriculum development, psychometric testing and analysis, academic and vocational counseling and guidance, developmental education, and student registration.

Your Committee finds that to a large extent, the University's deficiencies in faculty and staff development as reflected in the Legislative Auditor's report No. 81-9, stems from internal budgetary constraints as well as external budgetary priorities as set by the Governor and the Legislature. Similarly, funds for educational improvement and direct student services are also affected by the Legislature's ability to appropriate sufficient funds within the limits of available resources.

Your Committee feels that the areas identified previously are of significant priority to both the quality of education and direct services to students. In this respect, it is proposed that that at least a portion of the revenues generated by tuition fees be earmarked to augment these important programs and provide a means by which a measure of stability can be implemented to protect and preserve essential and vital programs and services.

Your Committee agrees with the concept of funding certain selected programs and services as described in this bill through a portion of tuition fees because of the high visibility of both the proposed Board of Regents' tuition increase and the decline in state revenue projections. In view of this situation, your committee feels that this bill adequately addresses the concerns of the students who are faced with the very real possibility of a substantial tuition increase and a corresponding decrease in quality of educational services.

Your Committee has amended this bill by:

- (1) providing the University with more flexibility to not only implement, but to also improve the programs and services included in this bill.
- (2) deleting subsection (b) which authorizes deposits in the fund only after a tuition increase approved by the Board of Regents; and
- (3) removing the retroactive effective date of the bill.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1255, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1255, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Chang.

SCRep. 174 Higher Education on S.B. No. 1256

The purpose of this bill is to increase the number of tuition waivers and scholarships offered at the University of Hawaii.

Sections 304-4 and 304-15, Hawaii Revised Statutes, respectively authorize the Board of Regents to (1) waive or reduce tuition fees for qualified students not to exceed five per cent of the total full-time enrollment of the previous fall semester for each campus in the University system; and (2) grant State scholarships in any academic year not to exceed eight per cent of the University's total full-time enrollment of the previous semester. Section 304-17, Hawaii Revised Statutes, limits the total financial aid units (tuition waivers and scholarships) that may be granted in any given academic year to not more than thirteen per cent of the total full-time enrollment in the previous fall semester.

This bill would raise the tuition waivers available to seven per cent, the scholarships available to twelve per cent and subsequently the total units of state financial aid to nineteen per cent.

Your Committee recommends adoption of this measure based on strong indications that the Board of Regents will adopt a tuition increase. Based on these indications and testimony presented before this Committee by the University, your Committee finds that there will be a definite increase in the demand for tuition waivers and scholarships.

Your Committee has amended this bill by making the bill effective upon approval rather than upon approval of a tuition increase.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1256, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1256, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Chang.

SCRep. 175 Higher Education on S.B. No. 1257

The purpose of this bill is to create a revolving fund for libraries administered by the University of Hawaii.

Your Committee finds that the loss of library materials experienced by the University System's libraries have not been systematically or properly addressed. The current approach to this problem is based on a deterrence theory as reflected by traditional fines and fees, and symbolized more recently by electronic detection devices. Although there seem to be no objections to the deterrence concept, it does not provide funds directly to the libraries for repair or replacement costs since revenues from fines and fees are deposited into the State general fund.

Revenues for the new library revolving fund will be derived from fines and fees for lost, overdue, or damaged books, serials, and periodicals and other such sources as coin-operated photocopy machines and reprography and educational media services provided by the libraries. Allowable expenditures from this fund shall include such items as repair or replacement of lost, damaged, stolen, or outdated books and periodicals, and to support other direct library services and activities.

Your Committee has received information from the University which indicates that approximately \$40,000 annually is collected by the libraries, and deposited into the State treasury. Although the proposed revolving fund will not completely resolve the problem, your Committee believes that it will provide a viable alternative for meeting an important part of the operational needs of the libraries. In addition, it will also provide an incentive for the libraries to review their fee and fine structure and be more aggressive in their collection process.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1257 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 176 Higher Education on S.B. No. 1259

The purpose of this bill is to require students participating in the professional student exchange program of the Western Interstate Commission for Higher Education (WICHE) to reimburse the State for any support fees paid with funds appropriated by the legislature. The bill also requires that the funds be repaid ten months after graduation or withdrawal from the program, and that interest be set at five per cent.

Your Committee has operated on the premise that students in Hawaii deserve the highest quality education and have concluded that many of them enjoy just that. However, we have supported the concept that when training in a particular field is not available in Hawaii, it would be advantageous to the people of the State to send our students to other states for training in the hope that they would return as qualified professionals to again meet the needs of the general population. The WICHE program of student exchanges has admirably served this purpose.

Still, with the pressure of inflation, high unemployment, and the general state of the economy, it is the purpose of your Committee to assure that this educational system does not become flawed by an uneven distribution of funds or by the lack of funds altogether, such actions operating to the disadvantage of those students who need the most help.

Therefore, your Committee has amended the bill by deleting subsection (b) in the first new section in the bill and by subsequently changing subsection (c) to the new subsection (b). Other nonsubstantive technical and grammatical amendments have been made.

The purpose of the amendment to the bill is to assure that students participating in the program be required to reimburse funds expended by the State in their behalf in accordance with bylaws adopted by the Hawaii WICHE commissioners. In this way, while funds are used by the students, other funds would be coming in to replace the expended funds on a continual basis; and in this manner, more of Hawaii's students can be served.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1259, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1259, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 177 (Joint) Higher Education and Hawaiian Programs on S.B. No. 1261

The purpose of this bill is to repeal section 304-23, Hawaii Revised Statutes, which directs the University of Hawaii Board of Regents to secure the compilation and publication of a revised history of the Hawaiian people and to transfer these responsibilities to the Office of Hawaiian Affairs.

Under section 304-23, Hawaii Revised Statutes, the Board of Regents of the University of Hawaii has the responsibility for compiling and publishing a revised history of the Hawaiian people. Presently, however, there is no coordinated effort at the University of Hawaii to fulfill the statutory mandate of section 304-23.

Section 10-3, Hawaii Revised Statutes, states that one of the major purposes of the Office of Hawaiian Affairs is to serve "as the principal agency in this State responsible for the performance, development, and coordination of programs and activities relating to native Hawaiians and Hawaiians. . .". Therefore, your Committees find that the Office of Hawaiian Affairs is the appropriate agency to secure the compilation and publication of a revised history of the Hawaiian people. Inasmuch as the University of Hawaii will continue to be one of the "sources of the history, culture, and art of the Hawaiians" through its scholarship and research in these areas, it may cooperate fully with the Office of Hawaiian Affairs in furtherance of the purposes of this bill.

Your Committees have amended the bill by making language changes which do not alter the intent and purpose of the measure.

Your Committees on Higher Education and Hawaiian Programs are in accord with the intent and purpose of S.B. No. 1261 and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1261, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Chang and Soares.

SCRep. 178 Housing and Urban Development on S.B. No. 704

The purpose of this bill is to amend Section 15 of Act 278, Session Laws of Hawaii, Regular Session of 1982, by deleting the repeal date of December 31, 1983, and making the Act effective upon its approval rather than on July 1, 1982.

Under federal law, the floating of tax-exempt bonds for housing purposes will be disallowed on December 31, 1983, if Congress does not act to amend the federal Mortgage and Subsidy Bond Tax Act of 1980. Your Committee has been informed that Congress may pass an extension to allow the issuance of bonds beyond the end of this year. The Hawaii Housing Authority intends to take full advantage of the maximum amount of bonds which the federal government will allow to be issued this year (\$200 million). Amending this provision in Act 278 will allow the Authority to continue to float bonds in 1984 if Congress extends the drop dead provision.

The establishment of the repeal date in Act 278 also created a technical error in that amendments made to the Hula Mae loan program were also contained in Act 278, and if the amendments proposed in this bill are not enacted, all other provisions of the Act necessary to the Hula Mae program will also terminate.

Your Committee has amended the bill by deleting the provision which would have made Act 278, Session Laws of Hawaii, 1982 effective upon its approval, and instead, retaining the original effective date and repealing the repeal date of December 31, 1983.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 704, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 704, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Cobb.

SCRep. 179 Hawaiian Programs on S.B. No. 7

The purpose of this bill is to appropriate funds for the Office of Hawaiian Affairs to accomplish its goals and objectives.

The total OHA operating budget, as recommended by the Office of Hawaiian Affairs, appropriates state general funds in the amount of \$564,620 and one-to-one matching of special funds for a total of \$1,129,239 for fiscal year 1983-84. Appropriations for fiscal year 1984-85 are \$592,350 of state general funds and an equal amount of special funds for a total of \$1,184,700.

In addition to these operating costs, the biennium budget proposal also includes an appropriation for Capital Investment Program (CIP) funding in the amount of \$420,000 in fiscal year 1983-84 and \$1,193,000 in fiscal year 1984-85.

Your Committee has amended the bill by changing all references to "Chairman" to "Board of Trustees". This change will bring the bill into conformity with the statutory powers and responsibilities of the OHA Board of Trustees pursuant to chapter 10.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 7, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 7, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and A. Kobayashi.

SCRep. No. 180 Government Operations and County Relations on S.B. No. 741

The purpose of this bill is to allow Hawaii residents with out-of-state licensed vehicles the same tax exemption enjoyed by out-of-state residents who bring their out-of-state licensed vehicles into Hawaii. Also, the bill provides realistic requirements for junked and stored vehicles under the new staggered registration system.

Presently, tax exemptions are allowed for out-of-state residents who bring their out-of-state licensed vehicles into Hawaii. This exemption permits a vehicle to operate for the lesser of 12 months from date of entry into the State or expiration of the out-of-state license plates before being required to obtain Hawaii license plates. This bill will extend this exemption to Hawaii residents with out-of-state licensed vehicles.

Your Committee finds that under present statutes, a vehicle must be currently registered before the Director of Finance can accept the junking of the vehicle. The result of this requirement has caused more vehicles to be abandoned on public and

private property with the owners of these vehicles claiming that these vehicles were sold to another party. Since most junked vehicles cannot pass a safety inspection, which is a requirement for current registration, vehicle owners are not willing to pay taxes for a vehicle which will be junked as soon as it becomes currently registered.

Present statutes provide for refunds equal to only the remaining full quarters of the current registration year in which a vehicle is stored and requires the owner of a vehicle to surrender his current license plates before he can store his vehicle. There is no grace period for registration under the monthly staggered system as compared to the former annual registration system which allowed for the one quarter grace period from January 1st to March 31st of each year. The bill remedies the situation by providing for equitable treatment under the staggered system whereby the taxpayer would be required to pay for back taxes and penalties only for the period during which the license plates could have been utilized if validated by an emblem.

Your Committee concurs with testimony from the City and County of Honolulu supporting this measure as a means of providing equitable application of the motor vehicle laws dealing with out-of-state, junked and stored vehicles.

Your Committee amended the bill to conform to recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 741, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 741, S.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee.

SCRep. 181 (Majority) Economic Development on S.B. No. 900

The purpose of this bill is to extend the expiration period of exempt Okolehao and fruit wine sales from June 30, 1981 to June 30, 1986.

The purpose of providing an exemption is to encourage the development of an industry or enterprise within the State. In this case, the current 20% tax levied on liquor is prohibitive toward the successful development of local products.

Your Committee, however, is mindful of the constitutional issue raised by providing and exemption for local products while continuing to tax liquor imported to Hawaii. However, your Committee is aware that other states, such as Mississippi and Oregon do have laws that encourage the development of locally produced liquor products.

Your Committee believes that the practices of other states should be reviewed. A resolution will be introduced for this purpose. As a result, your Committee recommends that an exemption for another year be granted. The bill has been amended accordingly.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 900, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 900, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 182 Economic Development on S.B. No. 1062

The purpose of this bill is to add a chapter to Hawaii Revised Statutes establishing a high technology development corporation and a Pacific International Center for High Technology Research.

Your Committee finds that high technology is a desirable industry for growth and development in Hawaii. Expectations are that the industry can be a stable source of employment and income, and will help diversify the State's economy. Moreover, the industry is environmentally and aesthetically compatible with the interests of the State.

In its review of legislation on high technology development, your Committee has

found that Hawaii can be an attractive and ideal setting for high technology research, development and manufacturing. The natural beauty, temperate climate, and clean water and air make Hawaii one of the most desirable places to live and work. Your Committee also finds that Hawaii is strategically located in the middle of the Pacific and is a natural location for expanding companies and corporations of both the east and west.

Already, this industry is in the initial state of development, and the State and existing industries are committed to developing and attracting such an industry in Hawaii. However, your Committee is aware of the worldwide competition for high technology firms. As a result, any governmental effort should be a careful, comprehensive approach toward developing such an industry.

Your Committee believes that the simultaneous creation of a high technology development corporation and a center for high technology will offer an opportunity to accelerate our efforts to establish an industry in Hawaii. The corporation will have the powers to develop industrial parks for the location of high technology enterprise, and would assist in the construction of facilities for such enterprise through the issuance of special purpose revenue bonds.

Your Committee believes that any development of high technology industry should be complemented by an association with a higher education institution. A study by the Joint Economic Committee of the U.S. Congress entitled Location of High Technology Firms and Regional Economic Development identifies the presence of an institution of higher learning as an important factor for high technology firms in deciding to locate in a particular area.

In addition, your Committee heard testimony given for U.S. Senator Spark Matsunaga that this proposed center can assist in developing a relationship between the two nations that are the forerunners of high technology development: Japan and the United States. The existence of such a center located in Hawaii could be instrumental in forging a partnership to further advancement in high technology.

Your Committee has received favorable testimony from the Departments of Planning and Economic Development and Taxation, the University of Hawaii, Oceanic Properties and the Chamber of Commerce. All favor this comprehensive approach toward high technology development in Hawaii.

Your Committee has amended this bill to incorporate the concerns raised at public hearing.

First, on advice of bond counsel, the Department of Planning and Economic Development recommends that the following section be included to support the legal requirements for revenue bonds.

"The Legislature finds that it is desirable and in the public interest to establish an instrumentality and agency of the State and to grant to such agency the power to develop industrial parks for the location of such high technology enterprises, to assist such high technology enterprises in the construction and equipping of facilities to be used for such enterprises and related facilities, and to issue special purpose revenue bonds to finance the cost of such development, construction and equipping. Further, the Legislature hereby finds that the establishment of the High Technology Development Corporation and the vesting of the powers granted it pursuant to this Act are a proper public purpose."

The bill has also been amended to rename the Japan-Hawaii Center for High Technology to the Pacific International Center for High Technology Research as suggested by the University of Hawaii.

Further, your Committee has adopted the suggestion of the Department of Planning and Economic Development to change the membership of the high technology development corporation board. Because the corporation is a public agency, state officials should serve as voting members. The bill has been amended to include the directors of the Departments of Budget and Finance and Planning and Economic Development.

Style and nonsubstantive amendments have also been made.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1062, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1062, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 183 Economic Development on S.B. No. 1305

The purpose of this bill, as amended, is to provide funding of \$50,000 in fiscal year 1983-1984 for research and development of hydrogen fuel. S.B. No. 1305 was a short form bill.

Your Committee has received favorable testimony from U.S. Senator Spark Matsunaga, the department of planning and economic development, and the Hawaii Natural Energy Institute about the potential of hydrogen fuel.

Your Committee finds that hydrogen fuel is promising and viable. The contribution that hydrogen fuel can make is great. Presently, 60% of the State's energy use is in liquid fuels used in transportation. Hydrogen fuel can meet 100% of liquid fuel needs, thus bringing us closer to the goal of energy self-sufficiency. It can also be used to generate electricity and fulfill other energy needs of this State.

Your Committee also finds that a Hawaii Hydrogen Program Coordinating Committee has been established at the Hawaii Natural Energy Institute to direct the research and development of hydrogen fuel. In addition, this Committee will attract additional and matching funding for these programs, and will attract quality research people and create new jobs.

Your Committee finds that an appropriation for research and development of hydrogen fuels will make Hawaii a leader in this field, and attain the goal of energy self-sufficiency.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1305, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1305, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 184 (Majority) Economic Development on S.B. No. 251

The purpose of this bill is to repeal chapter 205, Hawaii Revised Statutes, which establishes the land use commission, and to add a new section to chapter 46 which transfers those functions to each of the four county governments.

Your Committee believes Hawaii's land use system has evolved into a complex and burdensome regulatory process that inhibits effective utilization of our natural resources. With many state and county agencies sharing responsibility for land utilization and regulation, your Committee finds that land use management can be simplified through the designation of public agencies that should be responsible for land use.

In this regard, your Committee finds that the land use commission's current practice of conducting a parcel-by-parcel review of land use delays decisions in applications and unnecessarily gets into matters that are appropriately county concerns. This is due to the lack of a statewide perspective which was originally intended by the passage of the law. The lack of clear statewide guidelines allows the commission to review each application on its merits. In so doing, the commission merely duplicates the review of the counties.

On the other hand, your Committee firmly believes Hawaii's counties are capable of managing and regulating land within their jurisdiction. Since the land use commission was established in 1961, each county has created agencies that are responsible for the regulation and use of land, and all have adopted general plans to guide growth and development. This increased capability places the counties in a better position than the commission to ascertain the merits for land use changes in their respective counties.

Your Committee is cognizant of the contribution that the land use commission has made in establishing standards for land use management in Hawaii, especially when no strong county effort existed. But, in light of the development of county agencies to fulfill the functions of the commission during the past 20 years and the lack of a statewide perspective caused by the absence of policy guidelines on land use, your Committee has concluded that such responsibility properly belongs to the counties.

Your Committee also believes that State interests can be protected by the continued participation of the land use division of the department of planning and economic development in all county action on land use. The department should continue to represent the State's position in any county review of land use proposals.

Your Committee also believes that no employee of the land use commission should suffer the loss of employment and benefits. Accordingly, provisions have been made so that no employee is adversely affected.

Your Committee is in accord with the intent and purpose of S.B. No. 251 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.
Senator Hagino did not concur.

SCRep. 185 Economic Development on S.B. No. 905

The purpose of this bill is to add a chapter to the Hawaii Revised Statutes establishing a Hawaii product development corporation.

The Hawaii product development corporation would be empowered to enter into venture financing agreements with local businesses for the development of products, procedures, and techniques in the State.

Your Committee finds that there is a serious shortage of venture capital to promote the development and exploitation of products. As a result, the State faces a continuing decrease in new business enterprises and job opportunities.

Your Committee has amended the bill's emphasis on providing financial assistance primarily to businesses engaged in defense-related activities by providing a more general focus: to assist all local businesses in the development of products, procedures, and techniques in the State.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 905, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 905, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 186 Economic Development on S.B. No. 1060

The purpose of this bill is to establish an office of telecommunications that will develop, coordinate and supervise State telecommunications programs and provide technical assistance to government agencies and, when requested, to private industry.

Your Committee finds that a strong network of telecommunications services in the State of Hawaii is essential to the State's future economic growth and development, to facilitate communication throughout the Pacific basin and to attract new industries and multi-national corporations.

Your Committee further finds that the State's telecommunications responsibilities are presently divided among five executive departments: accounting and general services, budget and finance, commerce and consumer affairs, defense, and planning and economic development. The consolidation of these responsibilities into a single agency will provide effectiveness and accountability as well as centralizing human and financial resources of the State in the field of telecommunications.

S.B. No. 1060, in its present form, places the office of telecommunications within the department of commerce and consumer affairs. However, your Committee received testimony which indicated it would be more appropriate to place the office of telecommunications within the department of planning and economic development. Your Committee believes that with its experience, the department of planning and economic development is better-equipped to conduct long-term overall planning.

Your Committee has amended this bill by replacing "department of commerce and consumer affairs" with "department of planning and economic development." In addition, SECTION 3, referring to Section 440G-14, Hawaii Revised Statutes, has

been deleted.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1060, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1060, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 187 Economic Development on S.B. No. 1061

The purpose of this bill is to amend section 237, Hawaii Revised Statutes, by exempting from the general tax all overseas sales of electronic products manufactured in the State.

Your Committee finds that the development and manufacturing of high technology products is a desirable industry for Hawaii. Although this industry is in the initial stages of development, both the State and existing high technology industries are committed to developing such an industry in Hawaii.

A study by the Joint Economic Committee on the U.S. Congress, entitled Location of High Technology Firms and Regional Economic Development, identified state and local tax structures as one of the most important factors influencing the location of high technology firms. In this regard, your Committee heard testimony from the department of planning and economic development that Hawaii's general excise tax "may be a disincentive to a high technology company contemplating establishing a facility in Hawaii." The current law subjects exported goods delivered to a common carrier F.O.B. Honolulu to a four per cent general excise tax. Because most other states exempt out-shipments of manufactured goods from excise taxation, your Committee believes this tax puts Hawaii at a disadvantage in the world-wide competition for high technology firms.

Your Committee also believes the current 0.5 per cent general excise tax on manufacturer's gross receipts is a disincentive for major high technology corporations to locate in Hawaii. Under the current law, a manufacturer's sales to a final user out-of-state are taxed. According to the department, few other states impose such a tax on exported goods.

Your Committee is aware of the concerns of revenue losses likely to be caused by the enactment of this measure. However, because high technology firms are currently few in number, and such firms might not have located in Hawaii under existing tax requirements, your Committee does not believe this is an issue.

Your Committee has amended this bill by requiring the director of taxation to adopt rules and regulations to implement this section. Technical and non-substantive amendments have also been made.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1061, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1061, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 188 Economic Development on S.B. No. 1178

The purpose of this bill is to implement Article VII of section 12 of the Constitution of the State of Hawaii which authorizes the counties to issue special purpose revenue bonds to industries.

Your Committee finds that such bonds are important in aiding industrial development in the State. Your Committee further finds that it is in the public interest to allow counties to issue such bonds for industrial enterprises, and that granting counties such authority is a proper public purpose.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1178 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 189 Economic Development on S.B. No. 1177

The purpose of this bill is to implement Article VII of section 12 of the Constitution of the State of Hawaii which authorizes counties to issue special purpose revenue bonds to manufacturers.

Your Committee finds that such bonds are important in aiding manufacturing development in the State. Your Committee further finds that it is in the public interest to allow counties to issue such revenue bonds for manufacturing enterprises, and that granting counties such authority is a proper public purpose.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1177, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 190 Economic Development on S.B. No. 1085

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a section requiring the board of land and natural resources to fix royalty payments on geothermal resource utilization at rates that will encourage production. Additionally, this bill authorizes the board to waive royalty payments to the State for a fixed period not to exceed 10 years.

Your Committee finds the board's authority to fix and waive royalties on geothermal resource utilization will provide an incentive for current industry efforts to remain active and will encourage development. Industry representatives testified that this bill will give the department of land and natural resources an opportunity to determine the needs of, and assistance that should be offered to, the commercial development of geothermal energy. Because of the high-risk nature of geothermal exploration, the waiving of royalties can promote such exploration. However, your Committee believes the waiver of royalties to the State should be made only in cases of true necessity.

Your Committee also received testimony from the departments of land and natural resources and planning and economic development in support of this bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1085 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 191 Economic Development on S.B. No. 1070

The purpose of this bill is to amend Hawaii Revised Statutes Section 210-6 by increasing the maximum amount the Hawaii Capital Loan Program can offer small businesses from \$100,000 to \$250,000.

The Program provides low-interest loans to small businesses for expansion and operations, thus encouraging economic activity in Hawaii.

Your Committee received testimony from the department of planning and economic development in support of this bill. Raising the limit on capital loans will provide flexibility in assisting new industries. Such loans would be limited to firms that show promise in the development of high technology or present Hawaii with an opportunity for desired growth.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1070 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 192 Economic Development on S.B. No. 755

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds for a total amount not to exceed \$30 million for the construction of an ethanol plant.

Your Committee finds that ethanol is an indigenous source of liquid fuel that can reduce the State's dependence on imported petroleum. Ethanol can be produced from molasses, a by-product of sugar cane that has recently decreased in price, and can be used as an additive to gasoline. The sugar industry produces approximately 330,000 tons of molasses that can be converted into 23 million gallons of ethanol, or eight percent of the State's gasoline supply.

Your Committee received testimony from the department of planning and economic development and the Hawaii Sugar Planters' Association in support of this bill.

Your Committee finds that the Hawaii Sugar Planters' Association is in discussion with several refineries as to the feasibility of an ethanol plant. Accordingly, your Committee has decided not to specify the builder of the ethanol plant at present.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 755, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 193 Economic Development on S.B. No. 228

The purpose of this bill is to: (1) add a new section to the Hawaii Revised Statutes that will provide for a systematic program of land banking which will enable the orderly and expeditious acquisition of land by the state; and (2) establish a State land bank special fund, to be administered by the department of land and natural resources, which shall consist of any appropriations provided for the purposes of this program and other moneys which may otherwise be lawfully deposited into the fund.

In 1978, the voters of the State of Hawaii approved section 4 of Article XI, which reads:

"The State shall have the power to acquire interests in real property to control future growth, development and land use within the State. The exercise of such power is deemed to be for a public use and purpose."

This constitutional amendment established "land banking", the acquisition of land for the purpose of asserting State interests in the growth and development of entire regions, in advance of any immediate need for a particular public use. The Hawaii Constitutional Convention of 1978 believed that without this provision, the State would be prevented from acquiring private property unless there was immediate public need.

Your Committee finds that this bill calls for a systematic program that implements the constitutional amendment. Under current economic circumstances, it is not feasible to immediately acquire land for banking purposes. As a result, a planned, coordinated approach is needed in identifying lands that should be acquired by the State in the future. Under this bill, priority in acquisition is given to lands: (1) with unique natural features; (2) that have historical or cultural significance; (3) that contain renewable resources; and (4) deemed suitable for housing or diversified agriculture.

The desirability of lands for acquisition shall be determined through an inventory of all public and private lands in the State that shall be compiled by the department of planning and economic development.

Your Committee has learned that the department of land and natural resources has already compiled an inventory of all State-owned lands. This inventory will better enable the department of planning and economic development to compile the inventory of all public and private lands within the State.

The departments of planning and economic development, land and natural resources, and agriculture have delivered testimony in favor of this bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 228 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 194 Economic Development on S.B. No. 212

The purpose of this bill is to amend Hawaii Revised Statutes section 235-12 by deleting the expression "in home water heaters" in the definition of heat pumps.

Your Committee finds that broadening the definition of heat pump will correct an inequity that inadvertently restricted the 10 percent credit to residential installation of heat pumps to qualify, and will serve as an attractive incentive for commercial users to install energy conserving heat pumps and contribute to reduced dependence on imported petroleum.

Your Committee has received testimony from both the department of planning and economic development and the department of taxation in support of this bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 212 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 195 Education on S.B. No. 368

The purpose of this bill is to transfer school vehicle safety responsibilities from the Department of Education to the Department of Transportation and assign the responsibility for school vehicle passenger conduct and safety instructions to the Department of Education.

Although the Department of Education currently has the statutory responsibility for school vehicle safety and passenger conduct and safety instructions, there exists a Memorandum of Understanding between the Department of Transportation, Department of Education, and the Department of Accounting and General Services (which has been approved by the Governor) which places the appropriate responsibilities with the Department of Transportation and the Department of Education.

Your Committee feels that the memorandum recognizes each department's area of expertise and assigns the appropriate responsibilities accordingly. This bill would amend the current statutory scheme to reflect the present responsibilities of the respective departments.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 368 and recommends that it pass Second Reading and be referred to the Committee on Transportation.

Signed by all members of the Committee.

SCRep. 196 Government Operations and County Relations on S.B. No. 1096

The purpose of this bill is to provide for uniform and equal policies and methods of assessment for the taxation of all real property.

Your Committee recognizes the unique problem of residential owner-occupants of condominium units located in developments which include commercial usage of the premises. Owners of residential units in this category suffer higher assessment valuation rates than other comparable residential units in developments without commercial usage adjuncts.

Your Committee recognizes the complex nature of this problem and recommends passage to the Committee on Ways and Means for further study and refinement, in consultation with the Real Property Tax Committee of the counties.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1096 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Hagino.

SCRep. 197 Consumer Protection and Commerce on S.B. No. 812

The purpose of this bill was to mandate that health insurance policies and plans include coverage for health service, including osteopathy, naturopathy, chiropractic, optometry, and podiatry, when such services are rendered by a duly licensed

provider.

Currently, health maintenance organizations offer optional coverage for such services.

Testimony received by your Committee revolved around a policy question as to whether the benefit of having a broad spectrum of services available to accommodate the preferences of certain insureds outweigh the cost impact such a plan would have upon all insurance consumers.

Your Committee finds that the mandating of benefits in health care coverages is justifiable in that it provides the consumer with a broader spectrum of services.

Your Committee amended the bill by deleting all references in the bill to naturopathy, as it was determined that such services do not fall within the scope of the bill.

Your Committee is aware of the concern that chiropractic treatment should not have the right under insurance coverage to more visits than with medical doctors and higher coverage for each visit. It is the committee's decision to let health care providers establish guidelines for determining the policies for payment on the number of visits permitted and the cost per visit.

The bill was also amended by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 812, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 812, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Henderson.

SCRep. 198 Government Operations and County Relations on S.B. No. 1174

The purpose of this bill is to give counties the power to issue grant anticipation notes (GANs). These notes would be issuable up to two years in an amount not to exceed ninety per cent of a Federal or State grant to Counties for public improvements.

Your Committee finds that the authorization to issue GANs provides the counties with another tool to effectively manage their financial affairs.

The benefits provided by GANs are that they can alleviate temporary cash flow shortages when grant moneys are to be received after the incurrence of debt and payments to contractors can be made without having to wait for actual receipt of funds. Secondly, GANs also provide opportunities for investment earnings in excess of interest costs.

Your Committee amended the bill by correcting minor typographical errors.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1174, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1174, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and George.

SCRep. 199 Government Operations and County Relations on S.B. No. 742

The purpose of this bill is to provide a more realistic and practical application of the derelict vehicle law and to insure that abandoned vehicles are sold by motor vehicle repair businesses and towing companies at a realistic price.

Your Committee received supporting testimony from the City and County of Honolulu that the present statutes make it extremely difficult to classify a vehicle as a derelict even though it meets the physical condition of a derelict. Even an obviously derelict vehicle must be classified as an abandoned vehicle and a time consuming record search and notification procedure must be followed before the vehicle can be used. As a result, the removal of an obviously derelict vehicle cannot be accomplished in a timely manner.

This bill provides a more realistic and practical application of the derelict vehicle law by requiring notification of the vehicle owner if the vehicle is currently registered and identifiable. However, if the vehicle is not currently registered, it can be deemed a derelict if it meets the physical conditions of a derelict vehicle and may be immediately towed away.

The bill also requires an independent appraisal of the value of an abandoned vehicle prior to its sale by a motor vehicle repair business or towing company. Your Committee finds this would prevent the practice by motor vehicle repair businesses and towing companies of accepting unregistered local or out-of-state vehicles, claiming that these vehicles were abandoned by the customers, and then subsequently obtaining legal title to the vehicle. These vehicles are then allegedly sold back to the original party with a valid registration and title for a price which is normally below the value of the vehicle.

In order to insure that a vehicle with a recently expired registration is not disposed of as a derelict without the knowledge of a possible lienholder, your Committee has amended the bill by extending the vehicle's record search to include two registration periods.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 742, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 742, S.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Senators Hagino and George.

SCRep. 200 Government Operations and County Relations on S.B. No. 695

The purpose of this bill is to transfer the authority to determine the penalties and fees for unlicensed and stray dogs as well as impound fees from the State to the counties.

Currently, the counties are responsible for apprehending stray dogs and to maintain shelters for their impounding. However, the State has the authority to determine the fees and penalties.

Your Committee received testimony from the Honolulu Police Department and the Hawaiian Humane Society in support of the measure which would place the responsibility for enforcement with the counties. In accordance with the Department's recommendation that the seizure of stray animals is not a proper police function, your Committee amended the bill on page 2, lines 4 and 5, by deleting the phrase, "any sheriff, deputy, any member of a police force and". Other references to police officers were deleted in the bill.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 695, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 695, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and George.

SCRep. 201 Health on S.B. No. 1245

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for St. Francis Hospital.

Your Committee finds that it is in the public interest to assist not-for-profit health care facilities by issuing special purpose revenue bonds.

This bill authorizes the issuance of \$43,320,000 in special purpose revenue bonds to be used for financing the construction of a new hospital facility at St. Francis Hospital in Waipahu-Ewa, Hawaii.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1245 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 202 Health on S.B. No. 995

The purpose of this bill is to authorize Wahiawa General Hospital to refund an issue of special purpose revenue bonds.

Currently, fifteen and one-half per cent interest is being paid on the special purpose revenue bonds issued by Wahiawa General Hospital. Due to an improved commercial atmosphere, in which interest rates have substantially fallen, a savings of approximately \$3,000,000, could be realized by allowing Wahiawa General Hospital to refund the previous issue.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 995 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Young.

SCRep. 203 Health on S.B. No. 857

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for Kaiser Foundation Hospitals.

The Kaiser-Permanente Medical Care Program is a federally qualified Health Maintenance Organization. As such, it is required to develop rates based on cost and to charge the same rates to every group or member with the same benefit package. All of its rates or reimbursements, whether it be rates to the government for Medicare or Medicaid reimbursement, or rates to Health Plan members or groups or even fees to non-plan patients are based on its cost. Therefore any savings in interest expense is directly passed on, in the way of reduced increases in rates, to the consumer.

This bill authorizes the issuance of \$22 million in special purpose revenue bonds to finance construction of Kaiser Foundation Hospital's Moanalua Medical Center.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 857 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 204 Health on S.B. No. 827

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for Queen's Medical Center.

Queen's Medical Center was authorized two bond issues of \$60 million in 1981 and \$20 million in 1982. The Center began a construction project with the funds but encountered unexpected financial difficulties.

The bill would provide the Center with financial assistance to help resolve those difficulties by authorizing a bond issue for 1983. Your Committees has amended the bill by changing the amount of authorization from \$22,000,000 to \$20,000,000.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 827, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 827, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Young.

SCRep. 205 Health on S.B. No. 302

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

Currently, prescription drugs are taxed at the rate of four per cent. Your Committee finds that this proposal would impact favorably on Hawaii's population, especially senior citizens who subsist on small fixed incomes and find it difficult to cope with the high cost of the prescribed medications necessary for their well-being.

Your Committee has amended the bill by making technical changes which have no

substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 302, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 302, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Young.

SCRep. 206 Health on S.B. No. 234

The purpose of this bill is to establish procedures for executing and revoking a declaration directing the withholding or withdrawing of life-sustaining procedures in a terminal condition.

Your Committee has a number of reservations regarding this bill. However, in the interest of further discussion and because of pressing time constraints, your Committee has agreed to transmit this bill to the Judiciary Committee for further review and discussion. Our reservations shall also be communicated in a separate vehicle.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 234 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Young and George.

SCRep. 207 Health on S.B. No. 1310

The purpose of this bill is to appropriate funds for an agent orange program under the Department of Health and for a study of electromagnetic radiation from the transmitter facility at Lualualei by the University of Hawaii.

Your Committee feels that both these projects are worthy ones and deserve the full support of the agencies involved. The research to be conducted in these areas should prove of value for the entire population of Hawaii.

Your Committee has amended the bill by specifically delineating the agencies and funding amounts to be awarded, thus filling in the short form to include line appropriations.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1310, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1310, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Young and George.

SCRep. 208 Agriculture on S.B. No. 132

The purpose of this bill is to establish the Aquaculture Development Program in the Department of Land and Natural Resources.

Act 12, Special Session Laws of Hawaii (SSLH) 1977, authorized the director of the Department of Planning and Economic Development (DPED) to establish aquaculture programs and to hire temporary staff exempt from the provisions of Chapter 76 and 77, Hawaii Revised Statutes. Accordingly, with funds provided by the Act, temporary staff were hired for the Aquaculture Development Program. The personnel hired have been instrumental in completing the State Aquaculture Plan and advancing aquaculture in Hawaii.

Act 300, Session Laws of Hawaii (SLH) 1980, which provided funds to continue aquaculture activities authorized the Governor to transfer the Aquaculture Development Program (including functions and positions) from the DPED to other existing State agencies and Departments. To consolidate aquaculture activities of the State, the Governor transferred the Aquaculture Development Program from the DPED to the Department of Land and Natural Resources (DLNR) on January 16, 1981. Pursuant to Section 26-22, Hawaii Revised Statutes, all functions, staff and funds of the Aquaculture Development Program of Act 12 are also transferred from DPED to DLNR.

Funds to carry out the functions and positions of the aquaculture activities authorized by Act 12, SSLH 1977, have been provided in Act 1, SSLH 1981 and Act 264, SLH 1982, and are included in the 1983-1985 Biennium Budget Request of the DLNR. The transfer of the Aquaculture Development Program from the DPED to the DLNR has been administratively accomplished, but the wording of Act 12, SSLH 1977 continues to cause some confusion.

This bill provides for the necessary clarification of legal authority suggested to the DLNR by the Department of Personnel Services by establishing the Aquaculture Development Program in the DLNR. It also authorizes the chairman of the DLNR to continue hiring of temporary staff exempt from the provisions of Chapter 76 and 77, Hawaii Revised Statutes.

Your Committee has amended the bill by making technical changes that have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 132, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 132, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senators Hagino, Ajifu and Henderson.

SCRep. 209 Agriculture on S.B. No. 370

The purpose of this bill is to allow the Department of Agriculture to suspend payments of principal and interest on loans made to farmers by the Department under chapter 155, Hawaii Revised Statutes.

This bill adds a new section to chapter 155 which authorizes the Department of Agriculture to suspend payments of principal and interest on loans made under chapter 155. The payments could be suspended for a period of two years if the borrower is in a state of extreme financial hardship caused by factors beyond the control of the borrower such as natural catastrophes. The intent of the bill is to provide a means whereby the Department could give some relief to farmers who have loans outstanding with the Department and who are unable to make timely payments of principal and interest because of financial hardship caused by Hurricane Iwa.

Upon consideration of this measure, your Committee has adopted the recommendation of the Department of Agriculture to amend section 155-13(c), Hawaii Revised Statutes, to effect the intent of the bill rather than add a new section to chapter 155.

Section 155-13(c) presently allows a lender to extend the time for making repayments of principal on loans because the borrower is in a state of extreme financial hardship. The bill, as amended, broadens the section to allow suspension of payment of both principal and interest, because of financial hardship caused by, among other things, natural catastrophes.

Your Committee is in agreement that this bill will provide needed financial relief to farmers who are unable to make immediate payments on Department of Agriculture loans as a result of hardship caused by Hurricane Iwa.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 370, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 370, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino and Henderson.

SCRep. 210 Agriculture on S.B. No. 949

The purpose of this bill is to amend the definition of farmer to provide for a uniform definition of an individual farmer throughout the statutes.

Under the present statutes, there are varying definitions of the term farmer.

This bill provides for a uniform definition of an individual "farmer".

Your Committee amended this bill by adding a definition for "farmer" to apply to an individual farmer and by keeping the term "qualified farmer" which includes farmers, partnerships and corporations.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 949, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 949, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino, Ajifu and Henderson.

SCRep. 211 (Joint) Health and Human Resources on S.B. No. 467

The purpose of this bill is to establish a family assistance fund from part of the fees collected for marriage licenses.

Currently the marriage license fee is \$8, \$4 of which is applied to the benefit and compensation of the agent authorizing the license, with the remaining \$4 remitted to the Director of Finance.

This bill raises the marriage license fee to \$20, with \$10 remitted to the Director of Social Services to be paid into a family assistance fund for the purpose of supporting child and spouse abuse programs, and \$5 each to the agent and the Director of Finance.

Your Committees find that this proposal is reasonable in that it shifts some of the tax burden for spouse and child abuse programs away from the taxpayers and onto the shoulders of the married couples who are primarily responsible for the problem, while at the same time alerting marriage applicants of their impending responsibilities to each other and their children.

Your Committees on Health and Human Resources are in accord with the intent and purpose of S.B. No. 467, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 467, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Holt and Kuroda.

SCRep. 212 Legislative Management

Informing the Senate that S.C.R. No. 30, S.R. No. 45 and Stand. Com. Rep. No. 213 have been printed and were distributed to the members of the Senate on March 4, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 213 Ecology, Environment and Recreation on S.B. No. 889

The purpose of this bill is to amend Section 188-25, Hawaii Revised Statutes, by deleting the subsection (b) relating to reversion of the prohibition on sale of speared fish other than sharks, u'u, uhu and kumu after December 31, 1983.

The Department of Land and Natural Resources has been monitoring commercial spearfishing activities through landings reported in monthly catch reports required of licensed commercial fishers, market observations, interviews with fishers, fish dealers and consumers. The Department's review of the data collected to date indicates that there is no present need to reimpose the current restriction.

Your Committee received numerous testimony in support of the bill and concurs that the environment, fishermen, fish dealers, and the consumer would all benefit.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 889 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 214 Legislative Management

Informing the Senate that Stand. Com. Rep. No. 215 has been printed and was

distributed to the members of the Senate on March 7, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 215 Ways and Means on S.B. No. 1461

The purpose of this bill is to amend the state constitution.

Your Committee has amended this short form bill to a long form bill and is recommending the bill to your Committee for further consideration.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1461, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1461, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 216 Legislative Management

Informing the Senate that S.R. Nos. 46 and 47 and Stand. Com. Rep. Nos. 217 to 220 on March 8, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 217 Human Resources on S.B. No. 1432

The purpose of this bill, as amended herein, is to provide an exemption from the Workers' Compensation Law for services performed for a professional corporation by licensed persons who are also shareholders of such professional corporations.

In recent years many professional persons, such as doctors, lawyers, architects, dentists, and so forth have converted their status from a sole proprietor or partner status to that of a professional corporation. This trend has been stimulated by tax and other benefits. In so doing, however, these individuals have become subject to the Workers' Compensation Laws, even if such law was never intended to apply to them.

This bill will remove that obstacle by excluding such professional persons from the definition of "employment". At the same time, your Committee notes that in the event that a professional corporation wishes to elect voluntary coverage, it may do so under Section 386-4, Hawaii Revised Statutes.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1432 (S.F.), as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 1432 (S.F.), S.D. 1, and be recommitted to the Committee on Human Resources for further consideration.

Signed by all members of the Committee except Senator Holt.

SCRep. 218 (Majority) Ecology, Environment and Recreation on S.B. No. 363

The purpose of this bill is to establish a clear and complete description of the functions of the Department of Land and Natural Resources, including aquaculture activities recently transferred administratively from the Department of Planning and Economic Development.

The provisions of this bill recognize the recent reorganization of the department whereby wildlife and aquatic life activities are separated into the Division of Forestry and Wildlife and the Division of Aquatic Resources.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 363 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Solomon did not concur.

SCRep. 219 Ecology, Environment and Recreation on S.B. No. 1351

The purpose of this bill is to provide for historic preservation.

S.B. No. 1351 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 for concerns that have been presented to the Committee. Substantive contents have been inserted to inform the public as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. The purpose of the bill as amended provides the Department of Land and Natural Resources with authority to issue leases for activities relating to historic property.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1351, as amended herein, and recommends it pass First Reading in the form attached hereto as S.B. No. 1351, S.D. 1, and be recommitted to the Committee on Ecology, Environment and Recreation for further consideration.

Signed by all members of the Committee.

SCRep. 220 Ecology, Environment and Recreation on S.B. No. 134

The purpose of this bill is to amend Section 183-19, HRS which presently allows the Department of Land and Natural Resources to remove, shoot, or destroy wild cattle on State Forest Reserves, after proper notice to the public. The amendments would add State game management areas and public hunting areas to the purview of section 183-19.

Presently, wild cattle are found in these areas on most of the major islands and are inflicting serious damage to game watering devices, game plantings, and wildlife habitat to the detriment of game birds, game mammals, and native wildlife and plants.

Authority to notify the public of impending elimination of wild cattle in game management and public hunting areas and then remove or destroy them would allow for more effective wildlife management and would enhance game resources to the benefit of hunters.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 134 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 221 Legislative Management

Informing the Senate that S.C.R. Nos. 31 and 32, S.R. Nos. 48 to 50 and Stand. Com. Rep. Nos. 222 to 232 have been printed and were distributed to the members of the Senate on March 9, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 222 Ways and Means on S.B. No. 1465

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

Your Committee has amended this short form bill to a long form bill and is recommending the bill to your Committee for further consideration.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1465, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1465, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 223 Ways and Means on S.B. No. 1464

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

Your Committee has amended this short form bill to a long form bill and is recommending the bill to your Committee for further consideration.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1464, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1464, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 224 Ways and Means on S.B. No. 4

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

Your Committee has amended this short form bill to a long form bill and is recommending the bill to your Committee for further consideration.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 4, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 4, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 225 (Majority) Health on S.B. No. 236

The purpose of the bill is to assure that victims of breast cancer be apprised of alternative treatment modalities in addition to mastectomy.

Your Committee on Health finds that this addition to the existing informed consent statutes is necessary in order to protect patients from acceding to radical surgery without knowledge of less disfiguring but potentially as effective treatments which they might prefer.

Your Committee amended the bill to simplify compliance and delete time requirements.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 236, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 236, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 226 Consumer Protection and Commerce on S.B. No. 41

The purpose of this bill is to extend Chapter 467 (Real Estate Commission), which is under Sunset Review, for another six years to December 31, 1989.

This bill would allow continued government regulation of salesmen and brokers in order to protect the public from improper and incompetent practices by real estate salesmen and brokers.

Your Committee finds that while licensing does not eliminate misrepresentation or deceit, it provides minimal educational standards for entry into the profession, and a means for the consumer to seek remedy and restitution for financial losses resulting from the actions of the licensee.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 41 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 227 Consumer Protection and Commerce on S.B. No. 438

The purpose of this bill was to establish minimum standards of conduct and responsibility for companies which deal in burglary and robbery alarms.

Each year the Honolulu Police Department receives hundreds of false alarms which

nonetheless must be investigated at the expense of valuable Department time and resources.

Your Committee finds that the solution to this problem lies in the statutory regulation of the alarm industry proposed in this bill, whereby alarm companies would have to demonstrate financial responsibility, keep records of alarm activities, and identify the products they install.

The Honolulu Police Department testified in support of the bill and recommended language to broaden its application to include alarm systems installed in motor vehicles within the purview of the bill. Accordingly, your Committee has amended the definitions of "alarm business" and "alarm system" to read as follows:

"Alarm business" means any individual, corporation, or other business entity that engages in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system in or on any building, place, premises, or vehicle.

"Alarm system" means any device which is designed for the detection of an unauthorized entry into any building, place, premises, or vehicle, or for alerting others to the commission of an unlawful act, or both, and which emits a sound or transmits a signal or message when activated.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 438, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 438, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 228 Judiciary on S.B. No. 1444

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

Your Committee amended the bill to add a new chapter on child protection which codifies the present practices and procedures of Family Court in child abuse and neglect cases.

Your Committee on Judiciary is in accord with the intent and purpose of Senate Bill No. 1444, as amended herein, and recommends that it pass First Reading in the form attached hereto as Senate Bill No. 1444, S.D. 1, and be recommitted to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.

SCRep. 229 Consumer Protection and Commerce on S.B. No. 1339

The purpose of this bill was to require the consent of certain insured individuals in order to obtain life or disability insurance contracts.

Your Committee has amended this short form bill by adding substantive material which:

- (1) Amends section 431-416, Hawaii Revised Statutes, to delete the provision which allows a married person to effectuate a life or disability insurance contract for his or her spouse without the spouse's consent; and
- (2) Amends section 431-442, Hawaii Revised Statutes, to delete the provision that allows a married person without spousal consent, to effectuate a life or disability insurance contract for his or her spouse or child, or against loss by such spouse or child due to disablement by accident.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1339, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1339, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senators Carpenter and Yamasaki.

SCRep. 230 Human Resources on S.B. No. 1423

This is a short form bill. As amended herein, the purpose of the bill is to establish a comprehensive, uniform state-wide compensation system for all public officers and employees who are excluded from coverage under the Collective Bargaining Law.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1423, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1423, S.D. 1, and be recommitted to your Committee on Human Resources.

Signed by all members of the Committee except Senators Abercrombie, Holt and Young.

SCRep. 231 Ecology, Environment and Recreation on S.B. No. 139

The purpose of this bill is to allow for the transfer of park lands together with related improvements, personnel, equipment, and functions between the Counties and the State.

The City and County of Honolulu, Department of Parks and Recreation and the Department of Land and Natural Resources agree that this transfer would distribute the responsibilities for parks in a reasonable, efficient and planned manner.

Although initial plans for exchanges relate to the City and County of Honolulu and the State, this bill allows for the facilitation of similar exchanges to occur between the State and other Counties.

Your Committee has amended this bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 139, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 139, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 232 Ecology, Environment and Recreation on S.B. No. 362

The purpose of this bill is to enhance the program activities of the Division of Conservation and Resources Enforcement, Department of Land and Natural Resources.

The division enforces laws and rules governing conservation and resources. It may seize equipment, articles, or instruments used or possessed in the violation of these laws and rules.

Your Committee finds that there are persons who continue to violate the conservation laws and rules despite enforcement actions taken against them by the division. Seizure of items used in the violative acts are therefore necessary to curtail such activity.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 362, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 362, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 233 Legislative Management

Informing the Senate that S.C.R. Nos. 33 to 41, S.R. Nos. 51 and 52 and Stand. Com. Rep. Nos. 234 to 252 have been printed and were distributed to the members of the Senate on March 10, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee except Senator Young.

SCRep. 234 Consumer Protection and Commerce on S.B. No. 21

The purpose of this bill is to provide greater protection to the public from violations of Chapter 467B, Hawaii Revised Statutes, relating to solicitation of funds from the public.

The bill accomplishes this purpose by:

- (1) Giving any person who suffers damages as a result of violations of the chapter a right of action against the violator and specifically allowing such persons and the director of the Department of Commerce and Consumer Affairs to initiate class action suits.
- (2) Authorizing the court, when the State prevails in an action against a violator, to appoint a receiver to take possession of the assets of the violator and dispose of the same under the direction of the court.

Testimony received from the Department of Commerce and Consumer Affairs concurred in principle with the bill.

Your Committee finds that the bill affords the public additional protection from violations of Chapter 467B and will discourage unethical solicitation practices.

Upon consideration of this measure, your Committee has amended the bill by:

- (1) Incorporating the provisions relating to the appointment of a receiver as a new subsection in section 467B-10 rather than as a new paragraph in subsection 467B-10(g).
- (2) Making other technical changes.

The amendments relate to drafting style and have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 21, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 21, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 235 Consumer Protection and Commerce on S.B. No. 242

The purpose of this bill is to delete the requirement that the Board of Pilot Commissioners submit an annual report to the Governor.

A memorandum submitted by the Deputy Director of Commerce and Consumer Affairs indicates that of the thirty boards and commissions placed within the Department of Commerce and Consumer Affairs, fifteen are required to submit annual reports either to the Governor or the Legislature.

Your Committee finds that the Legislature's ability to elicit information will not be affected if the annual report is eliminated especially since quarterly reports would still be provided to the Department of Commerce and Consumer Affairs. Furthermore, your Committee has been assured that any information called for in the annual report is always readily available to the Governor upon request.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 242 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 236 Consumer Protection and Commerce on S.B. No. 247

The purpose of this bill was to repeal the statutory provision which raises the amount of the surety or cash bond required of all mortgage and collection servicing agents in July 1983, from \$25,000 to \$50,000, and to add a new provision which would substitute an irrevocable letter of credit in place of this bond.

Under the present law a mortgage servicing agent must purchase a \$25,000 surety or cash bond, which increases to \$50,000 on July 1, 1983, and file a copy of the bond with the director of Commerce and Consumer Affairs.

This bill repeals the statutory provision raising the amount of the bond to \$50,000 and adds a provision which allows an irrevocable letter of credit to be substituted in lieu of the cash or surety bonds.

Your Committee amended the bill by making the form of a letter of credit submitted in lieu of the bond subject to the approval of the director of Commerce and Consumer Affairs. The director's approval is necessary because letters of credit are issued in various forms by the financial institutions. The amendment allows the department of Commerce and Consumer Affairs to ensure that the letter of credit offered is sufficient to fulfill the purposes of the statute.

Your Committee has amended the bill by making nonsubstantive changes for the purpose of conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 247, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 247, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 237 (Majority) Health on S.B. No. 121

The purpose of this bill is to strengthen the Department of Health's capability to control the potential spread of tuberculosis.

Presently the Department is hampered in its efforts to obtain medical information and x-rays because it must first be granted authorization by the patients, who are often hard to find, and because relevant information is not always reported by physicians in a timely manner.

Your Committee finds that in order to increase its ability to evaluate and monitor patients and control the spread of tuberculosis, the Department must have the authority to obtain all the records and x-rays it needs without delay.

This bill authorizes the Department of Health to requisition any medical record or x-ray of anyone suspected of having tuberculosis, and requires all laboratories to submit reports of its findings regarding tuberculosis infected persons to the Department in writing.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 121 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Cayetano did not concur.

SCRep. 238 Health on S.B. No. 129

The purpose of this bill is to restructure the membership of the Board of Health to reflect the recent reapportionment of Hawaii's senatorial districts.

The present statute specifies that the Board be comprised of one member from each of the eight districts existing under the old apportionment structure, three member-at-large, and the Director of Social Services as an ex officio non-voting member, totalling eleven voting members.

Your Committee finds that to conform the language of statute to the present apportionment structure of twenty-five senatorial districts would require the Board to have twenty-eight voting members, which would be impractical.

This bill provides that the Board be comprised of at least one resident from each of the four counties, the rest of the eleven voting members to be appointed at-large, while the Director of Social Services remains an ex officio non-voting member. It also provides that the members shall serve without compensation but shall be reimbursed for expenses, including travel.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 129 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 239 Health on S.B. No. 670

The purpose of this bill is to authorize the Department of Health to obtain company records when there is cause to suspect that products are adulterated or misbranded.

Currently the Department is authorized to inspect any premises where food, drugs, or other consumer commodities are made, sold or stored, but it may not demand the company records pertaining to such goods.

Testimony by the Department of Health indicates that access to such records will aid in the investigation of questionable practices and will help in determining the effectiveness of product recalls.

This bill authorizes the Department to obtain records relating to the manufacture, distribution or sale of food, drugs, devices, cosmetics, or consumer commodities which are believed to be adulterated or misbranded.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 670 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 240 Health on S.B. No. 124

The purpose of this bill is to authorize the Department of Health to designate the number of blood samples and also when the blood samples are to be taken from pregnant women for syphilis testing.

The present statute requires only a single sample of blood to be taken at the first visit or within fourteen days thereafter.

Testimony by the Department of Health indicates that in the general opinion of the medical profession, the fetus is protected for the first sixteen weeks of pregnancy, after which it is vulnerable to infection. Syphilis detected and treated before the sixteenth week will prevent infection and damage to the fetus; however, most women do not seek prenatal care until after the sixteenth week, and if they subsequently contract the disease the fetus will be damaged.

Your Committee finds that the Department should be able to require an additional test during the woman's third trimester of pregnancy in order to safeguard the fetus against syphilis contracted late in pregnancy.

This bill allows the Department of Health to authorize as many tests at whatever times in the pregnancy it deems appropriate to safeguard the mother and the fetus against syphilis.

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

SCRep. 241 Health on S.B. No. 822

The purpose of this bill is to increase the membership of the Development Disabilities Council from fifteen to twenty-five members.

Testimony by the Council indicates that the proposed increase in membership will allow more consumer input and participation in Council activities, which in turn will broaden the bases on which to develop and improve the services provided to developmentally disabled individuals.

The proposed increase in membership does not entail additional expenditures of state funds.

Your Committee has made a nonsubstantive technical amendment to the bill by changing the last word in section 333E-4, Hawaii Revised Statutes, from "division" to "chapter."

Your Committee on Health is in accord with the intent and purpose of S.B. No. 822, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 822, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 242 Judiciary on S.B. No. 498

The purpose of this bill is to simplify the application procedure for domestic abuse protective orders.

Presently, section 586-3, Hawaii Revised Statutes, requires that the application for such orders be supported by a notarized affidavit. However, a notary is not always readily available, causing unnecessary delays in situations where immediate action is imperative.

Your Committee finds that the increasing number of domestic abuse cases necessitates a more efficient application procedure. The bill accomplishes this by permitting the statement supporting the application to be made either under penalty of perjury, or in a notarized affidavit.

Your Committee made technical, nonsubstantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 498, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 243 Judiciary on S.B. No. 79

The purpose of this bill is to limit the applicability of statutory exemptions from jury duty to civil cases only.

Your Committee is of the opinion that jury duty is the obligation of every citizen, regardless of occupation; and that no person should be entitled to exemption, unless that person had served as a juror in any other court of this state in the recent past.

Your Committee deleted all exemptions from civil or criminal jury duty, except as to a person who served as a juror in a state or federal court within the preceding year.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 79, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 79, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 244 Judiciary on S.B. No. 290

The purpose of this bill is to change the present interspousal immunity to permit spouses to sue each other for wrongful or tortious acts resulting in personal injury or property damage in the same manner as if they were unmarried.

The ancient common law rule of interspousal immunity was based upon the outdated notion that a husband and wife are one person under the law; therefore, the wife had no separate legal identity. The major problem with continuing this archaic idea in contemporary society is that it prevents a spouse from receiving compensation for personal injury and medical expenses that may be otherwise covered by insurance merely because the injury and expenses happened to be caused by his or her spouse. Currently, over half of the states have eliminated the notion of spousal immunity.

Your Committee made a technical nonsubstantive amendment.

Your Committee on Judiciary is in accord with the intent and purpose of Senate Bill No. 290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as Senate Bill No. 290, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 245 (Majority) Judiciary on S.B. No. 1152

The purpose of this bill is to repeal the present "resign to run" provision of the Hawaii Constitution.

Presently, an elected official must resign from office, as a condition of eligibility as a candidate for another office, if the term of the office sought begins before the term of the office held.

Although the resignation requirement applies to candidates for state and county office, an elected official need not resign to seek federal elective office. In addition, there are no comparable constraints on federal elected officials seeking other federal office.

Your Committee finds that Article II, Section 7, places an unnecessary requirement on candidates for state or county office.

Your Committee made a non-substantive technical amendment of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1152, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1152, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators George and A. Kobayashi did not concur.

SCRep. 246 Judiciary on S.B. No. 255

The purpose of this bill is to close an existing loophole in the firearm registration law. Presently, §134-2 requires that a person arriving in the State, who brings a firearm with him, shall register the firearm within 48 hours. However, the section fails to address the situation where the firearm arrives separately from its owner.

Your Committee amended the bill to clarify that within 48 hours of the arrival of the firearm, whether accompanied by its owner or otherwise, such firearm shall be registered.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 255, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 255, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 247 Health on S.B. No. 605

The purpose of this bill is to allow the Department of Health greater flexibility in providing nursing services to the public schools.

At present the law provides that registered professional nurses assigned to school health complexes must be classified either at the entry or next level of service.

Your Committee finds this to be overly restrictive, especially in times of limited personnel and resources, and that measures should be taken to allow the Department the flexibility to adjust work responsibilities according to identified needs and demands.

This bill lifts the restriction to entry or next level nurses and allows maximum utilization of available Department resources without duplication of services.

Your Committee has amended the bill by deleting the reference to the School Health Services Advisory Committee, an organization which was repealed in 1981, and by making a technical change which has no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 605, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 605, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 248 Health on S.B. No. 980

The purpose of this bill is to specify the composition of the various Hospital Management Advisory Committees throughout the State.

Presently, the statute is silent regarding composition of the committees, providing only that they consist of nine members to be appointed by the Governor.

This bill provides that each nine-member Committee be made up of one member to represent the County/State hospital, with the remaining members to be appointed at large.

Your Committee amended the bill to provide that each community served by the hospital shall be represented by a member on the Committee. The purposes of the amendment are to encourage greater community input and provide a broader county-wide basis for advisory decisions.

Your Committee also amended the bill by correcting a typographical error and making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 980, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 980, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 249 Consumer Protection and Commerce on S.B. No. 1337

The purpose of this bill was to clarify that section 478-13, Hawaii Revised Statute, was not intended to preempt the exemption from the usury limitations set forth in section 478-8, Hawaii Revised Statutes.

Your committee has amended this short form bill by adding substantive material, which amends section 478-13 by specifically referring to section 478-8 which provides exemptions from usury limitations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1337, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1337, S.D. 1, and be recommended to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senator Holt.

SCRep. 250 Hawaiian Programs on S.B. No. 618

The purpose of this bill is to enable the Board of Trustees of the Office of Hawaiian Affairs to render technical, financial, and advisory assistance to individuals as well as to agencies and private organizations.

The present statute provides that assistance may only be afforded to agencies and private organizations. However, your Committee finds that the purposes of the office may be better served by allowing the Board to contract with and otherwise assist individuals whose technical knowledge and abilities may be utilized for the furtherance of native Hawaiian and Hawaiian programs.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 618 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 251 Hawaiian Programs on S.B. No. 722

The purpose of this bill is to exempt the Department of Hawaiian Home Lands from any statute, ordinance, resolution or other regulation relating to the subdivision of land.

Presently, under the Hawaiian Homes Commission Act of 1920, as amended, the Department of Hawaiian Home Lands has the option of exemption from county land use ordinances. Testimony presented by the Department cited Attorney General's Opinion 72-71 as advising that the Hawaiian Homes Commission Act vests control of Hawaiian home lands in the Department and that such lands needed for the purposes of the Act cannot be subjected to county land use regulations.

However, the Attorney General's Opinion distinguished land used for homesteading purposes and land not used for homesteading purposes. The former is exempt from county ordinances while the latter, according to the opinion, could be subjected to county regulation.

This bill makes clear that all Hawaiian home lands are exempt from county as well as State laws relating to the subdivision of land.

Your Committee is in agreement that the exemption provided for in this bill will allow the Department of Hawaiian Home Lands needed flexibility in meeting its obligations under the Hawaiian Homes Commission Act and will allow the Department to explore innovative methods to accelerate the distribution of benefits to native Hawaiian beneficiaries.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 722 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 252 Hawaiian Programs on S.B. No. 920

The purpose of this bill is to allow lessees of Hawaiian Home Lands to return uncultivated portions of their tracts to the Department of Hawaiian Home Lands for subletting.

Your Committee heard testimony from the Department of Hawaiian Home Lands that under present department rules, when a pastoral or agricultural lessee requests that the department accept unused portions of lands under lease, the department evaluates the request and if it determines that a subdivision of the land will result in all lots retaining their agricultural or pastoral designation, the department initiates subdivision of the land and subsequently re-awards the resulting unused parcel to someone on the waiting list. This bill clarifies the authority of the department to follow such a procedure.

Your Committee has accepted the recommendation of the Department of Hawaiian Home Lands to make clarifying language changes in the bill. Accordingly, the bill was amended to clarify that a lessee may "surrender" rather than "return" uncultivated portions for the department to "award" rather than for "subletting".

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 920, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 920, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 253 Legislative Management

Informing the Senate that Gov. Msg. Nos. 162 to 207, S.C.R. Nos. 42 and 43, S.R. Nos. 53 to 55 and Stand. Com. Rep. Nos. 254 to 288 have been printed and were distributed to the members of the Senate on March 11, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 254 Health on S.B. No. 761

The purpose of this bill is to change methaqualone from a schedule II drug to a

schedule I drug. The bill lists as a schedule II drug the ingredients for a drug sold under the name of "Tussionex."

Your Committee agrees that the schedule change should apply to methaqualone and that the other changes are appropriate at this time.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 761, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 255 Consumer Protection and Commerce on S.B. No. 222

The purpose of this bill was to provide any seller, lessor, broker, or agent of real property located in areas designated on Flood Insurance Administration (FIA) maps to provide timely notification to prospective buyers, lessees, or tenants.

This bill further authorizes the Office of Consumer Protection to be the enforcing agency and provides a penalty for violating the notice requirements.

Your Committee concurs with the need to provide prospective buyers, lessees, and tenants with timely notification of possible flooding hazards within these areas prior to occupying or acquiring interests on such property. Your Committee notes that the penalty clause the bill provides is not intended to remove or preclude a private cause of action, in event of injury and is also aware that the bill applies to private sales only since sales involving federally licensed lenders already require notification.

Your Committee has amended the bill to:

1. Delete persons who offer to sell, lease, or rent, or exhibit for the purpose of selling, leasing, or renting from the provisions of this bill because a written notification prior to any sale, lease or rental should be more than adequate for disclosure purposes.
2. Provide that the properties affected by the bill are those which lie wholly or in part within the boundaries of special flood hazard areas to include those lots which may cross over a zone boundary.
3. Provide that leases of one year or less be exempt from the bill, rather than leases of less than one year as stated in the original bill.
4. Change the effective date to January 1, 1984 rather than upon approval, to allow time for all affected parties to be notified and educated prior to the enforcement of these requirements.
5. Make language and technical changes for the purposes of clarity and drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 222, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 222, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 256 Consumer Protection and Commerce on S.B. No. 179

The purpose of this bill is to delete the U.S. citizenship requirement for mortgage brokers and solicitors; to require a mortgage broker, if not an individual, to register to do business in the State with the Department of Commerce and Consumer Affairs; to require designation of a mortgage solicitor to be in charge of a branch office; and to make technical changes in the law.

The Department of Commerce and Consumer Affairs presently is not enforcing the U.S. citizenship requirement because it was earlier ruled by the Attorney General's Office that the U.S. citizenship requirement is unconstitutional.

Your Committee received testimony from the Department in support of this measure, which requires any corporation applying for a mortgage broker's license to be properly registered to conduct business in the State. For the protection of the

public, a mortgage broker, if not an individual, should not be issued a license unless it has first registered with the business registration division of the Department.

Your Committee finds that when a mortgage broker establishes a branch office, a licensed mortgage solicitor should be designated to be in charge of and held responsible for the activities of the branch office. The bill requires a mortgage broker to designate a mortgage solicitor to be in charge of each branch office.

Your Committee amended the bill to correct typographical errors and make technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 179, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 257 Consumer Protection and Commerce on S.B. No. 40

The purpose of this bill is to extend Chapter 466 (Board of Public Accountancy), which is under Sunset Review, for another six years to December 31, 1989.

This bill would allow continued government regulation of accountancy to protect the public from the economic harm that might result from incompetent or substandard auditing and the rendering of unreliable opinions of financial statements.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 40 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 258 Ways and Means on S.B. No. 891

The purpose of this bill is to appropriate \$321,786 for the negotiated settlement between the Research Corporation of the University of Hawaii and Hawaiian Dredging and Construction Company on claims for cost overruns relating to the "mini-OTEC" project.

The amount of the settlement has been reviewed by the Department of Planning and Economic Development and the Department of Attorney General. Both departments consider the settlement to be fair, equitable, and in the best interest of the State. Your Committee agrees and recommends payment of the settlement.

Your Committee has made two amendments to the bill. One amendment specifies that the appropriation is for the fiscal year 1982-1983. This is necessary to comply with the constitutional requirement that general fund appropriations be made for a specified period. The second amendments reinserts the effective date of the bill which was accidentally omitted in the senate draft 1 version.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 891, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 891, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 259 (Majority) Ways and Means on S.B. No. 941

The purpose of this bill is to allow General Motors dealerships in the State of Hawaii to file claims for an income tax credit equal to use tax refunds otherwise barred by the statute of limitation set forth in sections 237-40, 238-7, and 238-13, Hawaii Revised Statutes.

Your Committee finds that for many years General Motors dealerships were paying the one-half of one per cent use tax on vehicles brought into the State for resale while the General Motors Overseas Distribution Corporation was also paying the same use tax, and that the dealerships were not liable for the taxes paid and should be compensated for the overpayment.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 941 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ajifu and Henderson. Senators Fernandes Salling, Hagino and Solomon did not concur.

SCRep. 260 Ways and Means on S.B. No. 387

The purpose of this bill is to provide state funds for the promotion of the pineapple industry; provided that such funds are matched by private contributions.

The department of agriculture and the Pineapple Grower's Association of Hawaii are currently involved in a campaign to promote Hawaiian grown pineapples. This campaign which was funded with appropriations made by the Legislature in 1982 has produced successful results with a 56 per cent increase in 1982 over the sales in 1981. The appropriation of \$195,000 provided by this bill will continue this promotional campaign.

Your Committee has amended the bill by changing the effective date of this bill to July 1, 1983 instead of upon its approval.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 387, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 387, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 261 Ways and Means on S.B. No. 385

The purpose of this bill is to appropriate state matching funds for sugar research and development performed by the sugar industry.

In 1982, the Legislature appropriated \$3 million in matching funds to assist the sugar industry in research and development during fiscal year 1982-83. Accordingly, the department of Agriculture contracted with the Hawaiian Sugar Planters Association to research the bottlenecks to increased yields and production cost reduction. A report of the results of the first six months of funding revealed that the research and development projects have yielded good results and that continued funding assistance by the State would be in the public interest. This bill appropriates \$2,242,500, to be expended by the governor's agriculture coordinating committee, for the continuation of the research and development projects during fiscal year 1983-84.

Your Committee has amended the bill by changing the effective date of this bill to July 1, 1983 instead of upon its approval.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 385, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 385, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 262 Ways and Means on S.B. No. 210

The purpose of this bill is to amend chapters 237 and 238, Hawaii Revised Statutes, to provide that general excise tax and use tax returns be filed by the twenty-fifth day following the end of the calendar month during which the tax first became payable. These amendments would be effective 7/1/83.

Presently, chapters 237 and 238, Hawaii Revised Statutes, provide, with respect to the general excise tax and use tax laws, that persons who are liable for payment of a tax imposed by these chapters shall file a tax return and pay the tax due before the last day of the month following the end of the month in which the tax first became payable.

Your Committee finds that many taxpayers file returns at the last minute of the last filing day: some returns are incorrect or untimely filed. The Department of Taxation then has insufficient time to prepare data and reports reflecting the revenues received for the previous month in time for proper analysis of the prior month's revenue. The general excise tax returns reflect the volume of business done within the State, an analysis of the general excise and use taxes paid provides

important economic data to both the Department of Taxation and the private sector. Since the tax is owed to the Department of Taxation at the end of the month or quarter, this slight change in the due date imposes no hardship on the taxpayer and will relieve the pressure experienced during the end-of-month processing as well as even out the workload, thus enabling the Department of Taxation to provide more efficient tax administration.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 210 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 263 (Majority) Ways and Means on S.B. No. 109

The purpose of this bill is to eliminate the statutory limit on interest rates which may be paid on general obligation bonds.

Your Committee finds that the interest rate limitation on general obligation bonds should be removed because, historically, it has been demonstrated that prevailing market conditions rather than statutory interest rate ceilings determine the interest which state and local governments must pay on their bonds.

Your Committee further finds that expenditures for capital improvement projects are expected to continue at a rate of about \$150 million per year. To ensure continued, orderly financing of these projects without relying upon borrowings from the state general fund, it is advisable to have the interest rate ceiling on state general obligation bonds removed.

Your Committee has amended the bill by making a minor style change and by making the bill effective July 1, 1983. Since the State may sell bonds at interest rates up to 14 per cent until June 30, 1983 under Act 71, Session Laws of Hawaii 1982, and with the interest rate presently about 10 1/2 per cent an earlier effective date appears unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 109, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 109, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang and Ajifu.
Senator Kawasaki did not concur.

SCRep. 264 Ways and Means on S.B. No. 211

The purpose of this Act is to amend section 237-40(d), Hawaii Revised Statutes, to allow a taxpayer to claim a credit or refund of general excise taxes within three years after the due date of the annual return instead of within three years from filing the annual return or if an annual return was not filed, within three years after payment of the tax or within three years of the date prescribed for the filing of the annual return, whichever is later.

This Act would conform the statutory period of limitations for refunds with that of assessment section 237-40(a), Hawaii Revised Statutes, and the limitation period of assessment provided for in section 235-111(a), Hawaii Revised Statutes.

Currently the statutory period of limitations for assessment of the general excise tax is within three years after the annual return was filed or within three years after the due date prescribed for the filing, whichever is later; a result of Act 9, Session Laws of Hawaii 1971 which amended section 237-40. However, the limitation period for refund was untouched causing a discrepancy between the general excise tax assessments and refunds.

Your Committee notes that the taxpayer who files the annual return earlier than the due date has a shorter period in which to claim for a credit or refund than that applied to assessment. Under present law, an assessment could be asserted against a taxpayer who filed early after the limitation period for refunds expired and the taxpayer could not offset such assessment with any overpayment issue because of the shorter period of limitations for refunds.

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

S.B. No. 211 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 265 (Majority) Ways and Means on S.B. No. 521

The purpose of this bill is to conform the Hawaii Income Tax Law to recent amendments made to the Internal Revenue Code by the Tax Equity and Fiscal Responsibility Act of 1982, the Subchapter S Revision Act of 1982, and various other public laws affecting the Code.

In testimony before your Committee, the department of taxation explained the details of the amendments contained in the bill. Among the significant changes to the Internal Revenue Code that are incorporated in this bill to conform Hawaii's income tax law are: (1) the taxation of the early withdrawal of investment amounts from deferred annuity contracts; (2) the allowance of a deduction for casualty and theft losses only to the extent that the total loss, after the \$100 deduction, exceeds ten per cent of the taxpayer's adjusted gross income; (3) the reduction of the accelerated cost recovery system available for property subject to safe harbor leasing by restricting the qualified base property to forty-five per cent of the cost to the lessee, reducing the maximum lease term, and limiting the amount by which the lessor may reduce its tax liability; (4) the requirement that corporations capitalize on construction period interest and taxes for nonresidential real property; (5) the allowance of a minimum annual contribution for retirement annuities for church employees with adjusted gross incomes of \$17,000 or less or the lesser of \$3,000 or includable compensation; (6) for individual retirement accounts, the requirement that entire remaining interest of a trust be distributed within five years after the death of the owner or surviving spouse and the prohibition of a rollover of an inherited account, unless to a surviving spouse, although partial rollover of an eligible plan is permitted; (7) the adoption of special rules for credit for interest and dividend withholding as to beneficiaries of an estate or trust; (8) the repeal of the special rules for stock bonus and profit-sharing plans and the special limits on deductions and contributions on behalf of a shareholder-employee or a subchapter S corporation for tax years beginning after December 31, 1983; and (9) the requirement that annual withholding statements be provided to an employee terminated before the end of the calendar year within thirty days after a written request has been received from the employee if such thirty-day period ends before January 31. The bill also contains housekeeping and conformity changes.

Your Committee finds that this bill will result in a revenue increase.

Your Committee on Ways and Means is in accord with the intent and purpose of S.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 Senator Ajifu.
Senator Kawasaki did not concur.

SCRep. 266 Ways and Means on S.B. No. 502

The purpose of this bill is to clarify and amplify certain sections of chapter 39, Hawaii Revised Statutes, concerning the issuance, registration, transfer, and the payment and replacement of lost, stolen, destroyed, or mutilated state bonds.

These amendments are prompted by changes in the federal laws under the Tax Equity and Fiscal Responsibility Act of 1982, as amended, which requires that all tax-exempt state and municipal bonds issued after June 30, 1983 be in fully registered form.

Although chapter 39, Hawaii Revised Statutes, currently permits the issuance of fully registered bonds, it does not provide for the authentication of such bonds by the registrar appointed by the director of finance. The purpose of authenticating bonds is to facilitate the timely and orderly transfer of ownership of registered bonds after the initial issuance. The amendments proposed in sections 39-8 and 39-9, Hawaii Revised Statutes, relating to general obligation bonds of the State and in sections 39-56 and 39-64, Hawaii Revised Statutes, relating to revenue bonds of the State is to provide for such authentication.

This bill also amends sections 39-31 and 39-33, Hawaii Revised Statutes, relating to lost, stolen, destroyed, or defaced bonds and coupons of the State. Since all

tax-exempt bonds issued after June 30, 1983 must be fully registered, the indemnity requirements for providing for payment or replacement of lost, stolen, destroyed, or mutilated bonds and coupons need to be amplified to provide for more equitable treatment of registered bond holders. The proposed amendment provides that indemnity shall be in an amount sufficient to protect the State against potential loss resulting from such payment or replacement.

Minor grammatical and technical changes have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 502, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 502, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 267 Ways and Means on S.B. No. 1275

The purpose of this bill is to provide the State greater flexibility in selling its general obligation and revenue bonds by also allowing private or negotiated sale to parties other than governmental agencies.

Your Committee received testimony from the Department of Budget and Finance which explained that the present law permits the sale of general obligation and revenue bonds only to governmental entities that are not subject to taxation, hence there is little incentive for them to invest in tax-exempt bonds. The amendments proposed by this bill, in enabling the State to negotiate the sale of general obligation and revenue bonds to parties other than governmental entities, would provide the State with flexibility in the pricing and timing of issues of bonds, especially during periods when the bond markets are extremely volatile.

Your Committee has made numerous nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1275, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1275, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 268 Ways and Means on S.B. No. 379

The purpose of this bill is to exempt from the general excise tax amounts received by corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as enumerated in section 237-23(a)(6), Hawaii Revised Statutes, from an annual fund raising sale of goods.

Your Committee believes that exemption of these amounts from the general excise tax will allow these organizations, which perform important community services, to engage in additional activities and perhaps assist additional individuals through these activities. Your Committee believes that an exemption would also provide an incentive for these organizations to become self-supporting. Your Committee finds that fears that this bill will result in unfair competition with for-profit organizations are unfounded because the public purchases tangible goods from the organizations not necessarily for the goods themselves, but largely to assist the organizations.

Your Committee has amended the bill by making nonsubstantive, technical corrections and correcting a potential conflict between the bill and another section of the general excise tax law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 379, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 379, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 269 Human Resources on S.B. No. 147

The purpose of this bill is to reprioritize eligibility lists for filling vacant civil service positions.

The law currently places the promotional list in first priority for filling vacant positions, followed by the recall list, the reemployment list and the open-competitive list.

This bill places the recall list first, followed by the promotional list, the reemployment list, and the open-competitive list.

According to the testimony of the director of personnel services, collective bargaining contracts for units 2, 3, 4, and 13 already provide that persons who are on the recall list due to a reduction-in-force be given first priority, but excluded persons eligible for recall are placed in the second priority.

This bill insures the equal treatment of both included and excluded employees in situations involving reductions-in-force.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 147 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 270 Human Resources on S.B. No. 149

The purpose of this bill is to allow the chief executives of the State and the counties to appoint civil service employees to exempt positions as directors or deputy directors of executive departments without jeopardizing the right to return to their regular positions.

In the past, classified employees have been reluctant to assume high exempt positions for fear that they would lose the rights and benefits attendant to classified service, especially return rights. Presently there are provisions in the law and collective bargaining agreements which permit leaves for employees to work in other governments, the legislature or to perform union service. According to the testimony of the director of personnel services, this bill is a logical extension of this idea and would make available to chief executives a broader pool of qualified persons from which to make new selections for high exempt office, thereby contributing significantly to effective government administration.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 149 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 271 Human Resources on S.B. No. 507

The purpose of this bill is to increase the monthly exemption under the Hawaii Wage and Hour Law.

Presently, an individual who is guaranteed compensation of \$700 or more per month is exempt from overtime coverage under the Hawaii Wage and Hour Law regardless of the type of work performed.

Your Committee finds that \$700 per month is too low for overtime exemption. That amount is actually less than the statutory minimum wage based on a forty-eight hour work week. The last raise in monetary exemption was in 1969 when the minimum wage was \$1.40 an hour. Since then the minimum wage has been increased seven times while the overtime exemption has remained the same.

This bill raises the overtime exemption for salaried employees from \$700 to \$1000 per month.

Your Committee has amended the bill by exempting automobile salesman from the definition of "Employee" in section 387-1. The bill has been further amended by making technical changes which have no substantive effect.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 507, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 507, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 272 Human Resources on S.B. No. 508

The purpose of this bill is to require that a claim for temporary disability insurance benefits be filed within 90 days after the commencement of the disability, or as soon as is reasonably possible.

Present temporary disability insurance regulations call for the filing of claims within 30 days after the commencement of disability, or as soon as is reasonably possible.

Your Committee finds that the deadline for filing temporary disability insurance claims should be set at 90 days.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 508 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 273 Human Resources on S.B. No. 509

The purpose of this bill is to clarify the quorum requirement of the Hawaii Public Employment Relations Board (Board).

Section 89-5, Hawaii Revised Statutes (HRS), as originally enacted in 1970, provided for a board composed of five members of which three members constituted a quorum. Act 49, 1971 Session Laws of Hawaii, amended Section 89-5, HRS, by reducing the composition of the board from five members to three members. The quorum requirement of three members, however, was not changed to conform to the reduced size of the board.

This bill deletes the reference to the three-member quorum. The board would therefore be subject to the quorum requirements as set forth in Section 92-15, HRS, which provides that a majority of all members to which the board is entitled shall constitute a quorum.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 509 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 274 Human Resources on S.B. No. 510

The purpose of this bill is to ensure the right of privacy of the officers and employees of the Hawaii Public Employment Relations Board (Board) regarding salary disclosures in the Board's annual report. The present salary disclosure requirement is inconsistent with the rights of other public employees and is contrary to the provisions contained in Chapter 92E, Fair Information Practice (Confidentiality of Personal Record), Hawaii Revised Statutes (HRS), which limits the disclosure of personal records of the public and other agencies.

This bill deletes the requirement in Section 89-5, HRS, to disclose the salaries of the Board's officers and employees in its annual report to the Governor.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 510 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 275 (Majority) Human Resources on S.B. No. 511

This bill is essentially a housekeeping measure to delete references to the public

management committee and to substitute chairperson for chairman in Section 89-5, Hawaii Revised Statutes (HRS).

The section which established a public management committee was deleted from the final draft of Senate Bill 1696-70, which was subsequently codified as Chapter 89, HRS. It appears, however, that the Legislature inadvertently failed to delete references to the public management committee in other sections of the bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 511 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Cobb did not concur.

SCRep. 276 Judiciary on S.B. No. 448

The purpose of this bill is to allow aliens, who are duly commissioned state law enforcement officers, to acquire firearms under section 134-3, Hawaii Revised Statutes.

Your Committee received testimony in support of this bill by the Honolulu Police Department. Presently, state law enforcement agencies have encountered problems in hiring non-citizens because of the requirements of section 134-3.

Your Committee made a technical non-substantive amendment to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 448, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 448, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 277 Judiciary on S.B. No. 292

The purpose of this bill is to require that in all comparative negligence cases juries be instructed on the effect of their findings of the degree of negligence of the parties on the damages recoverable by the parties.

Presently, Section 663-31, Hawaii Revised Statutes, requires juries to make findings on the amount of damages which would have been recoverable if there had been no contributory negligence and on the degree of negligence of each party. However, in roughly three out of four cases, juries are not instructed that if they find one party's contributory negligence greater than the other's negligence, the first party is not entitled to recover.

As a representative cross-section of our community, the jury reflects the knowledge and conscience of the community. Jurors should be allowed to fully weigh the issue of contributory negligence and its impact on a party's ability to recover damages.

Your Committee amended the bill to make it clear that the law of comparative negligence provided in Section 663-31, Hawaii Revised Statutes, is the law on which the jury shall be instructed.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 292, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Mizuguchi.

SCRep. 278 Judiciary on S.B. No. 480

The purpose of this bill is to automatically terminate alimony upon remarriage and to require the remarried party who was entitled to receive alimony to notify the court and the former spouse of his or her marriage.

Presently, the party paying alimony must file an action to terminate payment. However, that party often is not informed when his or her former spouse remarries.

Your Committee finds that this amendment will appropriately place the responsibility of initiating action to terminate alimony on the remarried party.

Your Committee amended the bill to require that the remarried party file the notice of remarriage with the Court and serve it personally or by certified or registered mail within thirty days of remarriage. This change will ensure prompt notification and decrease the number of court actions brought by the former paying party to obtain reimbursement for payments made because he or she did not know of the remarriage.

Your Committee also made technical nonsubstantive amendments to clarify the intent of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 480, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 480, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 279 Judiciary on S.B. No. 1187

The purpose of this bill is to extend the "good samaritan" immunity from liability to anyone who, without expectation of remuneration and as a public service, publishes emergency first aid information.

Your Committee finds that the dissemination of information such as emergency first aid serves a vital purpose and should be encouraged. This bill imposes liability only when the publisher of such information is chargeable with gross negligence.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1187 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 280 Agriculture on S.B. No. 650

The purpose of this bill is to repeal Part II, Chapter 148, Hawaii Revised Statutes.

According to an opinion of the Attorney General, those sections of Part II, Chapter 148 relating to poultry labeling, i.e., sections 148-12 and 148-13, have been preempted by federal legislation and are invalid. The other sections of Part II are for the purpose of enforcing the preempted sections and, therefore, are of no substance.

Your Committee is in agreement that as a result of the preemption of sections 148-12 and 148-13, Hawaii Revised Statutes, by federal legislation, Part II of Chapter 148 should be repealed.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 650, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 650, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 281 Consumer Protection and Commerce on S.B. No. 247

The purpose of this bill was to repeal the statutory provision which raises the amount of the surety or cash bond required of all mortgage and collection servicing agents in July 1983, from \$25,000 to \$50,000, and to add a new provision which would substitute an irrevocable letter of credit in place of this bond.

Under the present law a mortgage servicing agent must purchase a \$25,000 surety or cash bond, which increases to \$50,000 on July 1, 1983, and file a copy of the bond with the director of Commerce and Consumer Affairs.

This bill repeals the statutory provision raising the amount of the bond to \$50,000 and adds a provision which allows an irrevocable letter of credit to be substituted in lieu of the cash or surety bonds.

Your Committee amended the bill by making the form of a letter of credit submitted in lieu of the bond subject to the approval of the director of Commerce and Consumer Affairs. The director's approval is necessary because letters of credit are issued in various forms by the financial institutions. The amendment allows the department of Commerce and Consumer Affairs to ensure that the letter of credit offered is sufficient to fulfill the purposes of the statute.

Your Committee has amended the bill by making nonsubstantive changes for the purpose of conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 247, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 247, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 282 Consumer Protection and Commerce on S.B. No. 185

The purpose of this bill is to delete the statutory requirement that the Board of Pharmacy submit an annual report to the Governor.

A memorandum prepared by the Deputy Director of the Department of Commerce and Consumer Affairs states that of the thirty boards and commissions registered with the Department, fifteen are required by law to submit an annual report. Attached is a copy of the memorandum.

Your Committee upon review of the annual report requirement, finds that the requirement is unnecessary and results in added costs to certain boards and commissions.

The bill also changes references in the law to the Department of Regulatory Agencies to reflect the name change to the Department of Commerce and Consumer Affairs, a title change made during the 1982 legislative session to more accurately reflect the Department's present jurisdiction over the area of commerce, consumer concerns and complaints.

Your Committee amended the bill on page 1, line 11, by adding the words "of those" after the word "such" to conform the bill to existing statutory language.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 185, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 185, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Toguchi, Uwaine and Yamasaki.

SCRep. 283 Human Resources on S.B. No. 198

The purpose of this bill is to clarify the confidentiality of certain information and records of the Department of Social Services and Housing.

According to recent court decisions and the Attorney General's office, the law regarding confidentiality of records (§346-10) does not necessarily refer to social services, nor does it refer to cases of adult abuse and neglect unless the victims are elderly.

This bill would protect the department's records and confidential information regarding applicants for and recipients of social service benefits; protect the identity and location of foster care and adoptive homes when it is in the best interests of the child, other foster children in the home, or the foster parents not to have the location of a child made known to the parents, guardians or other individuals; and provide for the confidentiality of all records of adult neglect and abuse.

Finally, this bill permits the disclosure of social service recipient information relevant to the operation of unlicensed adult day care facilities, in order to curb

such illegal facilities and to substantiate legal actions brought against them.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 198 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 284 Human Resources on S.B. No. 204

The purpose of this bill is to separate the matter of visitation from the matter of child support in public assistance cases.

Child support and parental rights of visitation and custody are clearly separate issues which are frequently combined. Noncustodial parents refuse to pay child support owed to the State claiming denial of visitation as a defense. Under current law, noncustodial parents are required to pay child support to the State as partial repayment for tax dollars used for support. The noncustodial parent's refusal to pay support as an attempt to coerce visitation is unreasonable.

This bill specifies that whenever public assistance is paid to or for the benefit of any child, the duty of support owed by a noncustodial parent is not affected by disputes over child visitation rights.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 204 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Holt.

SCRep. 285 Human Resources on S.B. No. 343

The purpose of this bill is to allow more time to negotiate model conversion plans.

The present statutory deadline for negotiating model conversion plans for public bargaining units is January 1, 1983.

Testimony by the Chief Negotiator, State of Hawaii indicates that they have yet to negotiate conversion plans for their white collar nonsupervisory and supervisory employees, their professional employees, and their scientific employees. Your Committee finds that the union should be allowed sufficient time to complete its work towards this end.

This bill, as originally drafted, extends the deadline for negotiating model conversion plans from January 1, 1983 to April 15, 1983. Your Committee has amended the bill by further extending the deadline to June 30, 1983.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 343, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 343, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 286 Human Resources on S.B. No. 519

The purpose of this bill is to restructure the Board of Social Services of the Department of Social Services and Housing.

Presently the Board consists of one member from each Senatorial district, three members-at-large, and the director of Health as an ex officio member. However, as a result of the reapportionment of the State into twenty-five senatorial districts, the Board would now have more than twenty-five members, which would be both cumbersome and costly.

This bill sets the Board membership at ten: one from each county (with the exception of Kalawao), five members-at-large, and the director of Health as an ex officio non-voting member.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 519 and recommends that it pass Second Reading and be placed on the

calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 287 Education on S.B. No. 1372

The purpose of this bill is to make various amendments to the laws governing teachers and substitute teachers.

Your Committee has amended this short form bill to insert substantive provisions. The bill, in S.D. 1 form, amends chapter 297, Hawaii Revised Statutes by:

- (1) Requiring all teachers hired by the Department of Education (DOE), except persons teaching in the Kupuna program, to have fulfilled at least four years of acceptable college education. Presently, teachers in "Class I" as designated under section 297-31.1 and 297-33, Hawaii Revised Statutes, are not required to have completed four years of college education;
- (2) Allowing applicants for permanent full-time teaching positions as teachers to receive credit for experience as substitute teachers. Presently, the DOE does not recognize experience obtained as a substitute teacher when applying for a full-time teaching position;
- (3) Requiring substitute teachers to accept all teaching assignments on the island of the teacher's residence. Presently, substitute teachers request the school district that they want to teach in, and are not obligated to teach at any school outside of the district requested.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1372, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1372, S.D. 1, and be recommitted to the Committee on Education for further consideration.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 288 Ecology, Environment and Recreation on S.B. No. 133

The purpose of this bill is to better conserve native forms of life by correcting inconsistencies in the definitions of aquatic life and wildlife and providing additional regulatory powers for the Department of Land and Natural Resources.

Chapter 195-D, Hawaii Revised Statutes, relating to Conservation of Wildlife and Plants, does not clearly state that aquatic life is provided for by the chapter. This bill will remove any doubt that Chapter 195-D applies to aquatic life.

The chapter presently establishes penalties for persons who violate its provisions. The bill amends those penalties to achieve consistency with penalties for other violations of conservation laws.

The bill provides the department the authority to revoke licenses issued by the department to persons performing activities for scientific purposes or to enhance the propagation or survival of affected species. Your Committee received testimony that there should be a reasonable basis for such actions. Your Committee concurred with the testimony and amended the bill by providing that licenses shall be revocable for due cause.

Your Committee also amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 133, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 133, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 289 Housing and Urban Development on S.B. No. 153

The purpose of this bill is to clarify the provisions of section 206E-3(b), Hawaii Revised Statutes, which state how members of the Hawaii Community Development Authority are appointed by the governor.

Currently, the law provides for the initial appointment of three members selected from a list of ten prospective appointees recommended by the local governing body of the county in which the designated district is situated. There is no selection procedure specified for subsequent appointments to fill vacancies on the Authority.

This bill specifies the number of names to be recommended by the local governing body if one, two, or three vacancies are to be filled at one time.

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

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 153, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 153, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 290 Housing and Urban Development on S.B. No. 202

The purpose of this bill is to amend section 46-15.2, Hawaii Revised Statutes, by correcting a drafting error in paragraph (2)(A) and (B).

During the 1982 legislative session, H.B. No. 3178, H.D. 1, S.D. 1, was passed and subsequently signed into law by the governor as Act 284. The purpose of the law is to allow the counties to issue bonds to support mortgage loan programs. The intent was to provide for the establishment of program qualifications by the counties if general obligation bonds are issued, but to require the counties to comply with the provisions of the Hula Mae Program if the counties issue revenue bonds for their loan program.

Upon review of Act 284, it was discovered that due to a transposition of chapter numbers, the opposite was accomplished.

Senate Bill No. 202 proposes to amend section 46-15.2 by amending paragraph (2)(A) to read "chapter 47" (which relates to general obligation bonds) rather than "chapter 49" and paragraph (2)(B) to read "chapter 49" (which relates to revenue bonds) rather than "chapter 47".

Your Committee has made nonsubstantive amendments to the bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 202, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 202, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 291 Housing and Urban Development on S.B. No. 254

The purpose of the bill is to amend section 359-62, Hawaii Revised Statutes, to allow unrelated elderly persons to share housing accommodations in an elderly housing project of the Hawaii Housing Authority.

Under the current statute for projects developed under chapter 359, part III, Hawaii Revised Statutes, the Authority may accept only elderly tenants who are either married, members of the same family, or tenants who serve as companions to elderly tenants who are ill or disabled. The tenancy of a companion renter ceases upon the recovery of or removal of the elderly person from the project.

To date, no elderly housing projects have been developed under part III due to a lack of funds, thus, the provisions of section 359-62, Hawaii Revised Statutes, have not yet been applied by the Authority. However, since current rules relevant to other non-elderly housing projects developed by the Authority do not prohibit unrelated elderly persons from occupying the same unit, this amendment will provide consistency in the Authority's tenant selection procedures and policies.

In order to allow the Authority to rent units to single individuals, your Committee has amended this bill to permit the acceptance of one or more persons in a rental unit.

Your Committee on Housing and Urban Development is in accord with the intent

and purpose of S.B. No. 254, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 254, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 292 Housing and Urban Development on S.B. No. 328

The purpose of this bill is to prohibit discrimination by landlords who refuse to rent their units to parents with minor children.

With the current rental vacancy rate at only 1.7 per cent statewide, the problem of finding affordable housing, especially low-moderate rentals, is compounded by the unwillingness of many landlords to rent to parents with children. This dilemma is amplified by the upward trend in the number of families headed by single parents, particularly single mothers (13.2 per cent of Hawaii's families, according to the 1980 Census), who must rely on one income for all living expenses.

The City and County of Honolulu testified in favor of the bill but recommended that language be inserted to exempt housing projects specifically designated for senior citizens. Your Committee has amended the bill accordingly.

Your Committee has further amended the bill by defining "elderly" as persons sixty-two years and older.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 328, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 328, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 293 Housing and Urban Development on S.B. No. 520

The purpose of this bill is to amend chapter 356, Hawaii Revised Statutes, by adding a new section which will allow the Hawaii Housing Authority, with the approval of the attorney general, to delete delinquent rent accounts of tenants residing in federal public housing projects from its accounts receivable records if the accounts have been delinquent for at least ninety days.

Under section 40-82, Hawaii Revised Statutes, the Hawaii Housing Authority is unable to write off accounts unless the accounts have been in arrears for two years. This time period is substantially longer than for most other public housing agencies in the United States. The Hawaii Housing Authority testified that the Honolulu Area Office of the Department of Housing and Urban Development (HUD) reported that one of the highest priorities of HUD Region IX during the 1983 federal fiscal year will be to reduce the number of tenant accounts receivable to less than one per cent for each public housing agency under Region IX. Due to the current two-year restriction which the Hawaii Housing Authority must adhere to in writing off delinquent accounts, the authority has the third highest percentage of delinquent accounts out of the seventeen largest public housing agencies in the region. Since discretionary funding from HUD is substantially based on public housing rent collection performance, the authority may face a loss of discretionary funding approximating \$8 million if the rate is not reduced. By enabling the authority to write off the accounts delinquent for at least ninety days, the authority will be able to lower the percentage of tenant accounts receivable from the current five per cent figure to one per cent.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 520 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 294 Housing and Urban Development on S.B. No. 676

The purpose of this bill is to amend section 46-6(f), Hawaii Revised Statutes, to include hotels under the definition of "subdivision". This would eliminate the current hotel exemption from the "park-dedication" law established under Act 294, Session Laws of Hawaii 1967.

Act 294 was created to ensure that adequate park facilities would be provided whenever a new housing subdivision was developed. While visitors to our State are provided with their hotel's onsite recreational amenities which are usually available to hotel guests exclusively, the City Council of the City and County of Honolulu has testified that these visitors enjoy and utilize our park system. In light of this, the inequity of exempting hotels from the "park-dedication" law is apparent.

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

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 676, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 676, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 295 Housing and Urban Development on S.B. No. 703

The purpose of this bill is to amend section 359G-4.1(a), Hawaii Revised Statutes, to allow the Hawaii Housing Authority to submit to the legislative body of the county preliminary plans and specifications, instead of final plans, for housing projects for approval or disapproval by the county.

Under present law, the Authority is allowed to seek exemptions in the development of housing projects from certain zoning and construction standards. Currently, the Authority is required to submit final plans and specifications for a proposed development project for county approval. A majority of the Authority's housing projects are developed by private developers who must spend large sums of money to prepare final plans which are subject to the approval of the county council. The developer must run the risk of expending money which may be borrowed at a high rate of interest for final plans on a project that may not receive the exemptions sought.

The Authority testified that preliminary plans, which may include master plans, for the projects would be sufficient for council members to base their decision upon, and that if preliminary plans were submitted, substantial amounts of money could be saved by the developer, the Authority, and the eventual purchaser.

Your Committee received comments from the County of Hawaii Planning Department which expressed concern that there may be substantial changes between the preliminary plans and the final plans, and that the statute as amended by this bill would not assure that any such changes which appear on the final plans would be subject to the county's review and approval. Inasmuch as your Committee would like to provide the Authority with as much flexibility as possible in its administration of this statute in all of the four counties, your Committee recommends that each county determine its own compliance standards through the council resolution passed to approve the specific project. For example, if the County Council wishes to maintain absolute control to assure that the final plans are in full compliance with the preliminary plans, at the time of approval of the preliminary plans, the Council could provide that the approval is conditional upon the final plans being in substantial compliance with the preliminary plans which could be attached to the council resolution as an exhibit. The adopted resolution could be recorded at the Bureau of Conveyances, if necessary, to assure compliance. Conversely, if the Council wished to approve the project in concept and did not wish to concern itself with the final plans and specifications, the resolution could be drafted with only slight reference to the plans submitted.

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

Your Committee on Housing and Urban Development is in accord with S.B. No. 703, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 703, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 296 Housing and Urban Development on S.B. No. 969

The purpose of this bill is to amend chapter 46, Hawaii Revised Statutes, by adding a new section requiring each county to adopt an ordinance which will establish procedures to notify an applicant for a land use approval of the completeness or incompleteness of the application within forty-five days after the application has been

submitted to the county.

Governmental agencies responsible for reviewing applications will often request supplemental information in a piecemeal fashion. The subsequent delays in attaining land use approval may result in increased costs for the development project as well as for the governmental agency. While the additional information may be necessary in determining the justification of the proposal, the piecemeal fashion in which this is being accomplished indicates an incomplete initial review of the application by the governmental agency. This bill will require the county agency to maximize the thoroughness of its initial review thereby reducing costs and improving the efficiency of the land use and development control systems.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 969 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 297 Housing and Urban Development on S.B. No. 971

The purpose of this bill is to amend section 76-77, Hawaii Revised Statutes, to allow the counties to hire persons on a contract basis to expedite or facilitate the processing of applications for subdivisions, cluster, or development requests. These "contract processors" would fall under the list of positions exempted from civil service status.

It is well known that the permit process and review of development applications are inordinately long and elaborate. This has resulted in higher land costs for the people of our State. The problem, in part, may be a lack of adequate staffing at those times when the governmental agencies are backlogged with requests; this Act would allow the counties to hire the needed personnel to review and process the applications in a more timely and efficient manner.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 971 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 298 Education on S.B. No. 1045

The purpose of this bill is to direct the Board of Education to enter into negotiations with the appropriate agency of the federal government in order to have the federal government assume the obligation to educate federally connected students.

The Federal Impact Aid Program was passed by the Congress of the United States in 1950 to provide financial assistance to school districts in areas where federal ownership of property reduced local taxes for school purposes, or where a federal project or activity caused an influx of persons into a community, resulting in an increased number of children to be educated.

The Territory and State of Hawaii have received Impact Aid funds since 1951-1952, but between the years 1966-67 and 1980-81, the State of Hawaii received \$55 million less than it was entitled to based upon the number of federally connected students the State educated.

Your Committee finds that there is a need to direct the Board of Education to negotiate with the proper federal agencies to assure that the federal government is responsible for the education of federally connected children in public schools. Your Committee anticipates a loss of approximately \$3 million this year and foresees the possible elimination of Impact Aid funding. Your Committee further finds the loss of Impact Aid funds are seriously jeopardizing the proper functioning of our schools and the educational quality for all students, both civilian and federally connected.

This bill will permit the Board of Education to negotiate with the appropriate federal agency to assure that the federal government assume the obligation of educating students attending public schools whose families reside and work on a military installation and who are not domiciliaries of the State. Your Committee agrees with the Board of Education and the Hawaii State Teachers Association's testimony as to the importance of this negotiation.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1045 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 299 Government Operations and County Relations on S.B. No. 723

The purpose of this bill is to provide the County of Kauai with the authority to determine the need for and method of, repairing or improving substandard roadways to protect the health, safety and welfare of the residents which it serves.

Under present law, the County of Kauai is the only political subdivision of the State which is statutorily restricted from improving or doing any construction work on streets which have not been constructed in accordance with the established minimum standards for county roads.

This bill repeals Section 65-28, Hawaii Revised Statutes, which would remove this restriction on the County of Kauai.

Your Committee finds that passage of this bill is consistent with the philosophy of "home rule" in that it allows the County of Kauai to determine which county roads should be repaired or improved.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 723 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 300 Human Resources on S.B. No. 203

The purpose of this bill is to align Hawaii law with federal laws and regulations relating to child support obligations of parents whose child or children receive public assistance.

Current law which broadly establishes that public assistance moneys paid for a child creates a debt by the natural or adoptive parents to the State, has proven to be impractical.

This bill provides an equitable means for determining the child support obligation of a non-custodial parent by considering the income and assets of the parent as well as the needs of the child. These criteria reflect a more equitable measurement for indebtedness and aligns State law with federal laws and regulations.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 203 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 301 Human Resources on S.B. No. 209

The purpose of this bill is to allow the Department of Social Services and Housing greater flexibility in recovering medical assistance and burial payments in issues of third party liability.

Currently the law only provides for the subrogation against third persons for special damages whenever liability is established or an issue of third party liability is settled or compromised. This bill would allow the department to pursue recovery without regard to the type of damages incurred by the claimant.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 209 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 302 Judiciary on S.B. No. 492

The purpose of this bill is to enable court reporters to provide to the Public Defender court transcripts and copies which are now provided to other government attorneys.

The Public Defender should be accommodated in the same manner as other government attorneys. Your Committee finds no reason to accord different treatment of the Public Defender from the Attorney General, the county Prosecuting Attorney, or Corporation Counsel in obtaining transcripts or copies.

Your Committee made nonsubstantive technical amendments.

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

Signed by all members of the Committee except Senator Holt.

SCRep. 303 Judiciary on S.B. No. 1186

The purpose of this bill is to clarify that the Family Court has jurisdiction over all domestic abuse proceedings initiated under Chapter 586, including criminal proceedings for a violation of a domestic abuse order.

Although the present Chapter 586 authorizes the Family Court to hear all proceedings for the issuance and extension of domestic abuse protective orders, it does not specify that the court is authorized to hear criminal proceedings involving violations of the order. As a matter of judicial administration, the court which issues the order is the court which should adjudicate any violations of the order.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1186, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 304 Judiciary on S.B. No. 80

The purpose of this bill is to permit the Family Court to release the identity of a juvenile to a victim, when the victim intends to file a suit for loss or damage caused by the juvenile.

This bill codifies a current practice of the Family Court.

Your Committee amended the bill to require that the victim's request for the juvenile's identity specify the time, place, and nature of the loss or damage, to ensure the legitimacy of the request.

The bill was also amended to require that when a juvenile's identity is released to the victim, the juvenile's parents will be notified.

Your Committee also made technical, nonsubstantive amendments, including locating the bill's provisions in a new section of chapter 571, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 80, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 80, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 305 Judiciary on S.B. No. 481

The purpose of this bill is to change the time to file a motion for reconsideration of an order of the Family Court from ten to twenty days after entry of the order or decree, and to eliminate notification to the Attorney General when such a motion is

filed.

The Hawaii Family Court Rules were amended in 1982 to allow a person requesting the court to reconsider its order or decree to file a petition within twenty days after entry of the order or decree. This bill would conform section 571-54, Hawaii Revised Statutes, with the Hawaii Family Court Rules.

Furthermore, because the Attorney General is not involved in all proceedings enumerated in section 571-54, Hawaii Revised Statutes, sending a copy of the motion for reconsideration to the Attorney General is unnecessary and may breach the right to confidentiality of the parties.

Your Committee made technical, nonsubstantive changes to the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 481, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 481, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 306 Judiciary on S.B. No. 627

The purpose of this bill is to codify the family court's practice of using restraining orders against abuse or harassment in matrimonial actions where it has reasonable grounds to believe that it may occur. It also instructs any law enforcement officer to enforce these restraining orders and clarifies that any wilful disobedience of the order is a misdemeanor under section 710-1077, Hawaii Revised Statutes.

Presently, there is no specific authority for the family court to issue restraining orders against abuse and harassment. The family court had been doing so under its general equity powers. This bill would clearly grant it the authority.

Also, the police have been hesitant to enforce the restraining orders without any statute empowering them to do so. This bill dismisses any doubts in this regard, and allows the police to order the restrained party to leave for a three-hour cooling off period or, where they have reasonable grounds, to arrest the restrained party.

Testimony submitted by the Legal Aid Society of Hawaii and one of their clients, the Judiciary, the Family Law Committee of the Hawaii State Bar Association, and the Hawaii Women Lawyers, all supported this bill. Your Committee finds that this bill will provide an effective means to decrease the incidence of spouse abuse in the State.

Your Committee made technical, nonsubstantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 627, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 627, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Holt.

SCRep. 307 Health on S.B. No. 669

The purpose of this bill is to provide that violation of abatement of nuisance law and food, drug, and cosmetic law results in a fine of not more than \$25,000 for each separate offense. It further allows the director of health to impose the civil penalty. This bill also excludes animal feed, other than dog and cat food, from department of health jurisdiction and eliminates outdated federal rules adopted by the 1977 legislature.

Your Committee believes that the stiffer penalties mentioned will result in more effective compliance with laws and rules. Your Committee further finds that this bill would help to eliminate duplication of duties between the state departments of health and agriculture in regulating animal food by clearly stating that the authority over only dog and cat food shall rest with the department of health.

In response to the concerns that a fine as large as \$25,000 should rest with the courts, your Committee has amended the bill by lessening the civil penalty mentioned

on line 19 of page 2 of the bill as received from \$25,000 to \$10,000.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 669, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 669, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 308 Health on S.B. No. 123

The purpose of this bill is to eliminate the premarital syphilis serology requirement of section 572-7, Hawaii Revised Statutes.

Currently, all persons contemplating marriage must submit to serological tests for syphilis and rubella prior to applying for the marriage license.

Testimony by the Department of Health indicates that while Hawaii still has syphilis and rubella problems, the premarital serological tests have not detected a single case of syphilis in the past five years which would not have been detected through other means.

Your Committee concurs with the findings of the Health Department and finds that the premarital test for syphilis is unnecessary and should be stricken from the statutes. However, your Committee finds that there is a continuing need for prenatal syphilis testing and premarital rubella testing and notes that this bill does not eliminate those tests.

Your Committee has amended the bill by specifying that blood samples for rubella which are obtained in a department clinic will be analyzed by the department free of charge. Many private physicians send their samples to state facilities for analysis even though their patients can handle the costs themselves. This amendment provides that only public clinic users are entitled to free serological services through state facilities, which should result in a savings to the State of several thousand dollars a year in lab costs, billing and accounting.

The bill was further amended to correct a typographical error.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 123, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 123, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 309 Health on S.B. No. 670

The purpose of this bill is to authorize the Department of Health to obtain company records when there is cause to suspect that products are adulterated or misbranded.

Currently the department is authorized to inspect any premises where food, drugs, or other consumer commodities are made, sold or stored, but it may not demand the company records pertaining to such goods.

Testimony by the Department of Health indicates that access to such records will aid in the investigation of questionable practices and will help in determining the effectiveness of product recalls.

This bill authorizes the department to obtain records relating to the manufacture, distribution or sale of food, drugs, devices, cosmetics, or consumer commodities which are believed to be adulterated or misbranded.

Your Committee has amended the bill by providing that violation of the confidentiality of information obtained by the Department of Health in the course of an authorized investigation shall be a misdemeanor.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 670, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 670, S.D. 1.

Signed by all members of the Committee.

SCRep. 310 Consumer Protection and Commerce on S.B. No. 181

The purpose of this bill was to update and clarify the Nursing Home Administrators Act. The bill deletes references to gender and indefinite modifiers used within the context of the Act, and removes an outdated section.

In keeping with the recommendations of the Legislative Auditor who cited the need to eliminate vagueness in the rules and the importance of clarity and explicitness, your Committee has amended the bill by deleting the requirement of "good character and are otherwise suitable" as a condition for granting an individual a license as a nursing home administrator.

Your Committee received favorable testimony from various organizations including the Board of Nursing and the Board of Examiners of Nursing Home Administrators.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 181, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 181, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 311 Consumer Protection and Commerce on S.B. No. 791

The purpose of this bill is to require, upon reasonable notice, that insurers report such claims information as the Insurance Commissioner may deem necessary to protect the public interest.

Your Committee heard testimony from the Insurance Division of the Department of Commerce and Consumer Affairs that in the aftermath of Hurricane Iwa, the Insurance Commissioner requested certain information regarding claims to determine whether insurers were servicing claimants expeditiously. Although most carriers complied with the Commissioner's request, it became evident that the Commissioner had no authority to require that the requested information be transmitted if an insurer proved recalcitrant. This bill would provide the Insurance Commissioner with that authority.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 791 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 312 Consumer Protection and Commerce on S.B. No. 735

The purpose of this bill was to allow applicants for a Certificate of Public Accountant (CPA) to satisfy the graduate study requirement with three additional years of public accounting experience. It also proposed to delete the provision that equivalent experience as an auditor or examiner in industry or government may be substituted for professional public accounting experience.

Your Committee heard testimony from the Board of Accountancy and the Hawaii Society of Certified Public Accountants that there is a need to allow CPA candidates the option of replacing the graduate studies requirement with three years of public accounting experience, in addition to the two years of experience already required. This will assist candidates who may be financially unable to commit themselves to a fifth year of study or who may experience difficulty obtaining the necessary courses.

Your Committee is in agreement that the equivalent experience provision should be deleted because it is too difficult to determine equivalency.

Your Committee has amended the bill by decreasing the alternative additional experience requirement from three years to two years because five years total experience may be too onerous for some candidates. Your Committee is aware that CPA requirements are being modified in other states and will keep abreast of national developments.

Your Committee has further amended the bill by deleting the requirement that a candidate be of "good moral character," which is difficult to define, and substituting the words "has a reputation for competence, trustworthiness, and fairness."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 735, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 735, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 313 Consumer Protection and Commerce on S.B. No. 288

The purpose of this bill was to strengthen the statute on unfair insurance claim settlement practices.

The current statute provides that for a prohibited act to be considered an unfair settlement practice it must be committed without just cause and with such frequency as to indicate a general business practice.

This bill provided that the commission of a prohibited act, either without just cause or with frequency, constitutes an unfair settlement practice.

Your Committee heard supporting testimony from several organizations which indicated that the public would be better served if action could be initiated on the basis of a single complaint. However, the Hawaii Insurers Council testified that the proposed change was contrary to the basic intent of statute, i.e., to punish insurers who committed unfair acts as a general business practice.

Upon consideration of this measure, your Committee finds that isolated acts in violation of the unfair claim settlement statute should not be equated with acts committed with such frequency as to indicate a general business practice. However, your Committee also finds that there is a need for a fair and equitable standard for defining unfair claim settlement practices, and has amended the bill to specify that three written complaints in a year is indicative of a general business practice. In order to ensure that insurers are notified of complaints and given an opportunity to take corrective action, the bill has been further amended to require that the Insurance Commissioner notify insurers, by certified mail, of each complaint filed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 288, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 314 Consumer Protection and Commerce on S.B. No. 178

The purpose of this bill is to more clearly delineate the conduct for which the Board of Medical Examiners may initiate disciplinary action against licensees.

Under current law, disciplinary action against licensees may be initiated for unethical conduct as defined by Section 453-8, Hawaii Revised Statutes, which does not include standards of ethical conduct established by the Hawaii Medical Association or the American Medical Association.

This bill amends Section 453-8 to include acts contrary to the standards of ethics adopted by the Hawaii Medical Association or the American Medical Association and violations of the Uniform Controlled Substance Act or regulations adopted under the Act as conduct subjecting physicians to disciplinary action.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 178 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 315 Consumer Protection and Commerce on S.B. No. 180

The purpose of this bill was to delete the requirements that members of the Board of Nursing be United States citizens and that they file with the Lieutenant Governor the constitutional oath of office before the commencement of the members' term of office. The bill also makes nonsubstantive language changes throughout Chapter 457, Hawaii Revised Statutes.

Your Committee concurs in the need to delete requirements of citizenship and evidence of oath-taking as prerequisites to board membership.

Your Committee has amended the bill by:

1. Deleting the requirement that the Board of Nursing submit an annual report to the Governor. Attached to this report is a memorandum from the Department of Commerce and Consumer Affairs indicating which boards and commissions are required to submit annual reports to the Governor or Legislature. Your Committee finds that the value of such reports is minimal and has been assured by the Department that any information regarding the operations of boards and commissions is readily available to the Governor and the Legislature upon request.
2. Deleting the requirement in Section 457-4 that registered nurse board members have five years of post graduate experience in administering or teaching nurse training courses and substituting therefor a requirement that such members have five years of experience in the practice of nursing as a registered nurse. Testimony from the Board of Nursing indicated that the Attorney General had recommended this amendment because the "the practice of nursing" is defined in Section 457-2 and includes those nurses who are teaching and acting as administrators.
3. Making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 180, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 180, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 316 Consumer Protection and Commerce on S.B. No. 182

The purpose of this bill is to delete the statutory requirement for the Board of Dispensing Opticians to submit an annual report to the Governor.

The Board is currently required to present a detailed statement of its acts, proceedings, and recommendations to the Governor through the Director of the Department of Commerce and Consumer Affairs. The Deputy Director of the Department of Commerce and Consumer Affairs states in his testimony that there will be immediate availability to the Board's records should the Governor or Legislature need access to them, and thus the additional requirement for an annual report is not necessary. Attached is a memorandum from the Department on the matter of annual reports.

This bill also reflects the departmental title change made in 1982 when the Department of Regulatory Agencies became the Department of Commerce and Consumer Affairs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 182, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 317 Consumer Protection and Commerce on S.B. No. 192

The purpose of this bill is to delete the requirement of the Board of Public Accountancy to submit an annual report to the Governor.

Currently, the board is required to submit an annual report to the Governor. Testimony from the Department of Commerce and Consumer Affairs stated that annual reports have not been submitted in the past, however, the department stands ready to provide any information to the Governor or Legislature upon request.

Attached is a memorandum from the Department of Commerce and Consumer Affairs on the matter of annual reports to the Governor.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 192, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 318 Federal Relations on S.B. No. 117

The purpose of this bill is to authorize the Governor to order the National Guard into active service for non-emergency situations.

Current law authorizes the Governor to order the National Guard into active service for war, insurrection, invasion, riot, imminent danger, or for assistance to civil authorities in disaster relief. However, the law does not allow authorization into active service for such activities as the use of the Royal Guard, special protocol assignments, support of State occasions, civil defense training exercise requirements, and the conduct of numerous special departmental functions.

Your Committee finds that it has been a long standing practice to utilize National Guard personnel for special protocol assignments, support of State occasions, and special departmental functions. This bill will legitimize this practice by providing statutory authority for utilizing National Guard personnel for these activities.

In recommending approval of this measure, it is the intent of your Committee that the expanded authority granted to the Governor only be utilized to provide the services currently being performed and not to further expand non-emergency use of the National Guard.

Your Committee on Federal Relations is in accord with the intent and purpose of S.B. No. 117 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 319 Transportation on S.B. No. 220

The purpose of this bill is to amend section 286-133, Hawaii Revised Statutes, by clarifying the language when an unlicensed person is permitted to drive a vehicle.

This bill eliminates the requirement of "knowingly" permitting an unauthorized person to drive a motor vehicle and makes the same provision for persons who own or control mopeds.

Your Committee has amended this bill to keep the existing language that no vehicle owner shall authorize or knowingly permit an unlicensed person to drive his vehicle on any highway in order to preserve the rights of a vehicle owner whose vehicle has been used without his knowledge by an unlicensed driver.

Your Committee has further amended this bill by deleting the proposed new section addressing owners of mopeds and added "or moped" to the existing language to prevent future problems when additions or deletions are made to other sections of the statute, and has made a technical amendment which has no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 220, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 220, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 320 (Majority) Transportation on S.B. No. 305

The purpose of this bill is to amend Section 291C-143, Hawaii Revised Statutes, to prohibit the sale of any portable device designed to be attached to a bicycle for the purpose of carrying a passenger on the bicycle.

At present the language is inadequate and allows for misinterpretation of the original intent of the law which was to restrict the number of passengers allowed to ride on a bicycle as the bicycle was originally constructed. Your Committee has amended this bill to clarify this section.

The bill, as amended, would also prohibit the selling of any portable device designed to be attached to a bicycle for the purpose of carrying a passenger on the bicycle. This restriction would apply to all bicycles ridden on highways and roadways throughout the state.

The Traffic Division of the Honolulu Police Department testified in favor of this bill. The department cited the control and maneuvering of a bicycle requires great effort under the current motor vehicle population and becomes even more difficult when there is a passenger.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 305, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 305, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 321 (Majority) Transportation on S.B. No. 389

The purpose of this bill is to add a new part to Chapter 291, Hawaii Revised Statutes, relating to child passenger restraints. This bill would make the use of car restraints mandatory for children four years of age or younger when transporting the child in a motor vehicle operated on a public highway in this State.

The installation and use of such seats shall apply to any and all drivers and not only to parents or the legal guardians of the youngsters. The child passenger restraint system shall be installed according to the manufacturer's instructions and should meet federal motor vehicle safety standards.

Throughout the United States the number one cause of death and injury among infants and children is motor vehicle accidents. The utilization of child restraint systems may help to prevent any further deaths or injuries to Hawaii's infants and children.

Your Committee on Transportation has amended this bill to exclude emergency, commercial, for hire, mass transit, and Type 1 (those that carry more than 16 passengers) school bus vehicles from the definition of "motor vehicle" as used in this section.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 389, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 389, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Soares did not concur.

SCRep. 322 Transportation on S.B. No. 1105

The purpose of this bill is to allow controlled access of motorcycles to designated carpool lanes on roadways and highways throughout the state during "peak hour" traffic.

Public Law 97-424, signed into law by the President on December 21, 1982 prohibits federal funds from being appropriated for construction or resurfacing of highways to states which do not allow motorcycles from using carpool lanes unless such use would create a safety hazard.

The Department of Transportation testified in favor of the bill. The department, however, has determined counterflow lanes (those coned off during peak traffic hours) are not included in the definition of a carpool lane and therefore shall remain prohibited from motorcycle usage.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1105 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 323 Transportation on S.B. No. 525

The purpose of this bill is to amend chapter 286-112, Hawaii Revised Statutes (HRS), by allowing additional persons to sign and verify a minor's application for an instructional permit or driver's license and removing the proof of financial responsibility requirement for the one parent or guardian.

Currently HRS 286-112, subsection (a), does not provide for situations where only one parent is living or has custody of the minor. The enactment of this bill would include the single parent as a legal signatory of the minor's application.

Under the present statute, Chapter 287 requires that proof of financial responsibility be deposited by persons convicted or adjudicated of certain offenses. Since the parent or guardian of a minor applying for an instruction permit or driver's license has not been convicted or adjudicated, the parent or guardian should not be required to deposit proof of financial responsibility. Subsection (c) unfairly places the one parent or guardian of a minor in the same category as drivers with poor driving records addressed in Chapter 287.

Experience has shown that a higher insurance premium is assessed to the policyholder required to deposit proof of financial responsibility. It appears unreasonable and unjust to subject the one parent or guardian to higher insurance rates.

Your Committee concurs with the testimony received from the department of transportation supporting this measure which would insure that legal signatories are not subjected to unreasonable requirements.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 525 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 324 Transportation on S.B. No. 366

The purpose of this bill is to amend section 26-19, Hawaii Revised Statutes, which changes the requirements as to the appointment of members of the commission on transportation which serves in an advisory capacity to the director of transportation.

Currently, the Commission on Transportation consists of one member from each senatorial district and three members at large. In the past there were eight senatorial districts, however, due to recent federal reapportionment there are now twenty-five senatorial districts which increases the Commission from eleven to twenty-eight members.

To alleviate increases in membership, S.B. No. 366 will change requirements so that one member will come from each county having a population under 200,000, one member from each district of each county having a population of 200,000 or more and three members at large. The term "district" refers to the districts set forth under section 4-1, Hawaii Revised Statutes. Membership to the Commission on Transportation would then decrease from twenty-eight to thirteen.

Your Committee believes that there is a need to decrease the membership to a more workable number of thirteen members. Also language of the law would be nondiscriminatory. The threshold number of 200,000 has been used by both the State and the Federal government in administering their affairs. Your Committee received testimony from the department of transportation in support of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 366, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 325 Ways and Means on S.B. No. 1292

The purpose of this bill is to appropriate \$1,500,000 for the settlement of the Holo Holo cases.

Testimony by the Attorney General indicated that the Holo Holo cases were settled on February 18, 1983, after one week of trial for a total amount in excess of

\$3,000,000. Four sources contributed towards the payment of the claims of eight plaintiffs; those sources were the State of Hawaii, the Research Corporation, University of Hawaii, the University of California and an insurance company on behalf of one of the plaintiffs.

Your Committee has amended the bill to provide that the State's share of the Holo Holo settlement be expended during fiscal years 1982-1983 and 1983-1984 and provided that any unexpended or unencumbered balance lapse into the general fund on June 30, 1984.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1292, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1292, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 326 Ways and Means on S.B. No. 30

The purpose of this bill is to require every person collecting rent on behalf of an owner of real property located in the State to file a copy of the first page of the rental collection agreement which shall include the name, address, social security number, general excise tax license number of the property owner, the address of the property rented, and a statement in bold print, ten-point size indicating that a copy of the first page of the agreement shall be filed with the department of taxation and that the owner must pay general excise taxes on the gross rent collected. In lieu of the first page of a rental collection agreement, a copy of Internal Revenue Service form 1096 or 1099, the property owner's social security number and general excise tax license number may be filed with the department.

Although section 237-13(10), Hawaii Revised Statutes, imposes a four per cent tax on gross rents received from rentals of property located in the State, testimony by the director of taxation reveals that the State is losing large amounts of revenue as a result of out-of-state owners of real property failing to pay general excise taxes on rents collected. Enforcement is presently laborious because the department of taxation has difficulty identifying and locating property owners. \$200,000 in revenues were recovered by the department of taxation last year during a two-month enforcement period; but only owing to the persistent efforts of its personnel who went through the tedious process of going apartment to apartment to find out who the owner was, then checking back through departmental and private records to determine if the owner had paid general excise taxes due, and then collecting such taxes.

This bill will eliminate the unnecessarily expensive process through voluntary compliance and provide the department of taxation with assistance in combating the underground economy threatening our economic and fiscal system.

Your Committee has amended this bill by deleting federal Internal Revenue Service form 1096 as an allowable alternative to filing a copy of the first page of a rental collection agreement and has made other technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 30, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 30, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 327 Ways and Means on S.B. No. 302

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

The gross income from the retail sale of prescription drugs currently is taxed at the rate of four per cent under the general excise tax law. The Department of Taxation estimates that \$1.5 million in general excise tax revenues will be lost if this bill is enacted into law, but has stated that it has no objection to enactment. Your Committee finds that the benefits resulting from this bill to individuals, especially senior citizens who have very little incomes and require much prescribed medication, outweigh the cost to the State. Thus, your Committee feels that Hawaii should join the twenty-six states which currently exempt from taxation the retail sales of prescription drugs, and recommends favorable action on this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 302, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 328 (Majority) Ways and Means on S.B. No. 1256

The purpose of this bill is to increase the number of tuition waivers and scholarships offered at the University of Hawaii.

Sections 304-4 and 304-15, Hawaii Revised Statutes, respectively, authorize the Board of Regents to (1) waive or reduce tuition fees for qualified students not to exceed five per cent of the total full-time enrollment of the previous fall semester for each campus in the university system; and (2) grant state scholarships in any academic year not to exceed eight per cent of the University's total full-time enrollment of the previous semester. Section 304-17, Hawaii Revised Statutes, limits the total financial aid units (tuition waivers and scholarships) that may be granted in any given academic year to not more than thirteen per cent of the total full-time enrollment in the previous fall semester.

This bill would raise the tuition waivers available to seven per cent, the scholarships available to twelve per cent and subsequently, the total units of state financial aid to nineteen per cent.

Your Committee recommends adoption of this measure based on strong indications that the Board of Regents will adopt a tuition increase. Based on these indications, your Committee finds that there will be a definite increase in the demand for tuition waivers and scholarships.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1256, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling and Ajifu.

Senators B. Kobayashi and Kawasaki did not concur.

SCRep. 329 Ways and Means on S.B. No. 523

The purpose of this bill is to clarify certain sections of the income and general excise tax laws by preventing a taxpayer from allocating income when a joint return is filed and one spouse is a nonresident, although permitting an allocation when the status of both spouses change. The bill also substitutes the term "number" for "amount" as the term relates to the number of exemptions claimed. Finally, the bill deletes the term "nonprofessional" as it relates to the definition of a service business or calling.

Your Committee finds that this bill should clarify any ambiguity concerning changes in residency status of married couples and its effect in reporting income. In addition, the deletion of the term "nonprofessional" permits professional persons, as well as nonprofessional persons, to be classified as a service business.

Your Committee feels that passage of this bill will mean greater understanding and compliance of the tax laws by clarifying the ambiguities which exist in the statutes.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 523, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 523, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 330 Ways and Means on S.B. No. 1175

The purpose of this bill is to provide language in county bond statutes necessary to accommodate federal requirements for the registration of bonds, and to make other technical amendments.

The Tax Equity and Fiscal Responsibility Act of 1982 requires that all municipal bonds issued after June 30, 1983 be fully registered. Your Committee agrees with

the finding of the Committee on Government Operations that although the county general obligation bond statutes allow for the issuance of fully registered bonds, additional language must be enacted to provide for signing, exchanging, transferring, and replacing fully registered bonds.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1175, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 331 Ways and Means on S.B. No. 150

The purpose of this bill is to conform the deferred compensation law to changes in the state tax law.

Act 7, passed during the Special Session of 1981, authorizes the establishment of a state deferred compensation plan and allows the counties to participate or develop their own plans. According to the department of personnel services, the state plan is being developed with enrollment to begin soon.

Present federal and state law provides that compensation deferred in accordance with section 457 of the Internal Revenue Code is excludable from federal and state income tax. This bill is a "housekeeping" measure which reconciles the deferred compensation law with changes in state tax law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 150, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 332 Ways and Means on S.B. No. 6

The purpose of this bill is to appropriate \$332,019.81 for compensation awards made pursuant to the Criminal Injuries Compensation Act.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 6, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 333 Ways and Means on S.B. No. 556

The purpose of this bill is to extend the existence of a special fund relating to the expedited processing of documents filed with the Department of Commerce and Consumer Affairs.

Act 244, Session Laws of Hawaii 1982, established special handling fees for the expedited processing of documents filed with the Business Registration Division of the Department of Commerce and Consumer Affairs. These fees were to be paid into a special fund which was to be used to pay for two temporary business registration assistants to process documents. The fund is scheduled for repeal effective July 1, 1984.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs that because of various delays, the positions authorized to be funded by the special fund have not been filled and the positions are not expected to be filled until the end of April, 1983. This bill extends the existence of the special fund until July 1, 1985 in order that the anticipated hiring of the two business registration assistants can be accomplished.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 556, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 334 Ways and Means on S.B. No. 839

The purpose of this bill is to extend the effective date of the amendment made by Act 165, Session Laws of Hawaii 1982, to paragraph (1) of section 88-74, Hawaii Revised Statutes (HRS), from July 1, 1982 to January 1, 1983.

Prior to the amendment of Act 165, section 88-74, HRS, allowed a member of the public employees' retirement system to retire prior to fifty-five years of age without penalty if the member had at least twenty-five years of credited service of which at least the last five years was credited service as a police officer, firefighter, corrections officer, sewer worker, or investigator of the Prosecuting Attorney's Office or Attorney General's Office. Act 165 amended section 88-74, HRS, to reflect the Legislature's original intent concerning the early retirement provision. As such, Act 165 allows early retirement without penalty only if the member has a total of at least twenty-five years of credited service as a police officer, firefighter, corrections officer, sewer worker, or investigator of the Prosecuting Attorney's Office or Attorney General's Office and has served the last five years in one of the positions. This amendment took effect on July 1, 1982.

According to the Executive Secretary of the Public Employees' Retirement System, the staff of the System did not use the amended section 88-74, HRS, in the calculation of retirement benefits for at least three members who are not fifty-five and who retired after July 1, 1982. Thus, the incorrectly calculated retirement benefits of these members were much more liberal than what they are entitled to receive under the amended section 88-74, HRS. These members would suffer financially if their retirement benefits were reduced to the proper amount. Since the fault is not with the members, the Executive Secretary has stated that a moral obligation exists to grant the originally calculated, although erroneous, retirement benefits to these members. The Executive Secretary has further stated that this bill would prevent costly litigation between the members and State.

Your Committee has amended the bill as received by replacing "14" on page 2, line 14 of the bill, as received, with "2(14)". This correction reflects the proper citation of the amendment to section 88-74(1), HRS, under Act 165 which is to be changed under this bill. In addition, technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 839, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 839, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 335 Ways and Means on S.B. No. 1259

The purpose of this bill is to require students participating in the professional student exchange program of the Western Interstate Commission for Higher Education (WICHE) to reimburse the State for any support fees paid with funds appropriated by the legislature at five per cent simple interest in accordance with bylaws adopted by the Hawaii WICHE commissioners. The bill also requires commencement of repayment ten months after graduation, dismissal, or withdrawal from the program and full payment within a ten-year period. This bill further establishes a revolving fund into which repayments by students will be deposited for use as support fees to WICHE receiver institutions.

The legislature has supported the concept that when professional training in a particular field is not available in Hawaii, it is advantageous to the State to send our qualified students to other states for expert training in the hope that they will return as competent professionals to serve the people of this State. The WICHE program of student exchanges has admirably served this purpose.

This bill assures that the student exchange program provided for by WICHE will not become flawed by an uneven distribution of funds or by the lack of funds altogether as a result of inflationary pressures, high unemployment, and a general lag in the economy by requiring students to reimburse funds expended by the State on their behalf, moneys which would be used to serve as funding for other student participants on a continual basis.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1259, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 336 Ways and Means on S.B. No. 1294

The purpose of this bill is to amend sections 24-2 and 24-3, Hawaii Revised Statutes, relating respectively to allowances for non-Oahu legislators during session and

allowances for expenses while traveling within the State on official legislative business during a session.

The bill changes the additional allowance for non-Oahu legislators from \$20 to an amount equal to the maximum allowance for such expenses payable to any public officer or employee for inter-island travel and requires the allowance to now include all personal expenses other than travel expenses.

Also, the bill amends section 24-3, Hawaii Revised Statutes, to provide that a member of the legislature whose legal residence is on an island other than Oahu who is required to remain away from Oahu but within the State overnight or longer while on official legislative business during a session, when authorized by the presiding officer of the respective house, shall now receive an allowance of \$20 a day, instead of an amount equal to the maximum allowance for such expenses payable to any public officer or employee, to cover all personal expenses except for travel expenses; provided that the member was not on the island of the member's legal residence while away from Oahu.

Minor technical changes have been made to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1294, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1294, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 337 Ways and Means on S.B. No. 1261

The purpose of this bill is to repeal section 304-23, Hawaii Revised Statutes, which directs the Board of Regents of the University of Hawaii to secure the compilation and publication of a revised history of the Hawaiian people and to transfer these responsibilities to the Office of Hawaiian Affairs.

Presently, there is no coordinated effort at the University to fulfill the statutory mandate of section 304-23, Hawaii Revised Statutes. Your Committee finds that the compilation of a revised history of the Hawaiian people is in the public interest and feels that the Office of Hawaiian Affairs will give more attention to fulfilling the mandate.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1261, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 338 Ways and Means on S.B. No. 215

The purpose of this bill is to require the registration of certain aircraft in accordance with procedures established by rules adopted by the department of transportation.

Currently, registration of aircraft is required by the federal government under Title 14, Code of Federal Regulations, Part 47 and the Federal Aviation Act of 1958, 49 USC 1401. Although such registration information is furnished to the department of transportation, the information is not sufficient for the efficient management and control of public airports and the supervision of aeronautics as required under section 261-2, Hawaii Revised Statutes. This bill would enable the department of transportation to obtain detailed, up-to-date information, for operational control, on the various based and transient aircraft using the state airport system.

Your Committee has amended the bill by adding a new section to require the department of transportation to assess and collect an annual registration fee of \$25 from each owner of aircraft required to register by this bill. Technical, nonsubstantive amendments were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 215, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 215, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 339 Youth and Elderly Affairs on S.B. No. 89

The purpose of this bill is to allow the Director of the State Immigrant Services Center to contract for services.

Your Committee received favorable testimony from the State Immigrant Services Center indicating that the permission to contract for services will enable the Center to carry out its function more efficiently and effectively.

This bill will authorize the State Immigrant Services Center to contract for services necessary to carry out its legal mandate.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of S.B. No. 89 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 340 Ecology, Environment and Recreation on S.B. No. 804

The purpose of this bill is to establish a statewide instream use protection program.

The law currently only provides for the regulation of streams in Windward Oahu districts.

The Department of Land and Natural Resources, Office of Environmental Quality Control, Board of Water Supply, United States Department of the Interior, League of Conservation Voters and several other groups and individuals supported the bill.

Your Committee finds that over half of the State's 366 perennial streams have been completely or partially diverted from their natural courses. This in turn has led to serious losses of stream habitat for native migratory fish, shellfish and waterbirds. Furthermore, instream uses of surface waters have significantly diminished recreation use, taro farming, underground water reserves and the aesthetic quality of our rivers and waterfalls.

The Hawaiian Sugar Planters' Association suggested that the establishment of an instream flow standard before the adoption of a state water code might be premature. The Department of Land and Natural Resources spokesman testified that existing users of water would be relatively unaffected and that the department is conscious of the need to develop a program that protects our vital economic interest and balances those interests with existing instream flow problems.

Your Committee finds that the State needs a comprehensive program for considering water use due to the growing competition for water and further finds that the establishment of instream flow standards is a necessary step in resolving instream flow problems. Based on testimony offered by the Department of Land and Natural Resources your Committee concludes that establishment of standards would not be injurious to present industrial uses.

This bill will further implement the 1978 Constitutional Amendment on protection of Hawaii's water resources.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 804 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 341 Legislative Management

Informing the Senate that Stand. Com. Rep. Nos. 342 to 400 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 342 Consumer Protection and Commerce on S.B. No. 18

The purpose of this bill was to 1) require the Director of the Office of Consumer Protection to provide written notice of intended civil action against persons suspected of unfair trade practices; 2) allow suspects to execute an Assurance of

Voluntary Compliance; and 3) provide for receivership to preserve the defendant's assets after judgment has been obtained.

Testimony by the Office of Consumer Protection indicated that requiring written notice and an opportunity to enter into an Assurance of Voluntary Compliance would compromise the ability of the Office to enforce action against bad faith offenders. The written notice would alert offenders of imminent legal action while the voluntary compliance vehicle would preclude the Director from filing suit seeking civil penalties against bad faith offenders.

Your Committee concurs with the Office of Consumer Protection on these points and has deleted the language pertaining to written notice and Assurance of Voluntary Compliance.

The Office of Consumer Protection supported the concept of receivership but pointed out that the proposed language would limit its value by requiring that a judgment would have to be obtained before a receiver could be appointed, leaving the defendant ample time to dissipate his assets. Accordingly, your Committee has amended the bill to provide that the court may appoint a receiver upon initiation of the court action.

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

Signed by all members of the Committee except Senators Holt and Henderson.

SCRep. 343 Judiciary on S.B. No. 115

The purpose of this bill is to repeal the State's current unclaimed property law codified in the Hawaii Revised Statutes as chapter 523 and to enact a revised Uniform Unclaimed Property Act in the form recommended by the National Conference of Commissioners on Uniform State Laws.

Chapter 523, Hawaii Revised Statutes, is based on the Uniform Unclaimed Property Act adopted by the National Conference of Commissioners on Uniform State Laws in 1954 and revised in 1966. However, as a result of the U.S. Supreme Court decision in Texas vs. New Jersey (579 U.S. 670, 1985), the Commissioners approved and recommended comprehensive changes in the Uniform Unclaimed Property Act of 1981 for enactment in all the states. These changes were approved by the American Bar Association in Chicago, Illinois, on January 25, 1982. The Supreme Court decision provided that unclaimed intangible property is payable to the state of last known address of the owner. This decision resolved the problems of conflicting claims by states to property presumed abandoned in other states which is not adequately addressed in the current uniform unclaimed property law.

The changes contained in the bill are based largely on the 1981 revisions as recommended by the National Conference of Commissioners on Uniform State Laws. In addition to conforming the present law to the Supreme Court decision, some of the more significant changes include the following:

(1) Reducing the period within which property may be presumed abandoned from seven to five years. This change reflects the inclination among state legislatures to reduce the dormancy period because of greater population mobility in recent years. The experiences of those states with shorter abandonment periods reveal that they are able to return to owners a substantially higher percentage of property reported as abandoned.

(2) Limiting assessment of charges against inactive or dormant accounts. Experience has shown that service charges levied against outstanding items such as money orders and cashier's checks as well as inactive and dormant checking and savings accounts have completely depleted otherwise reportable property. Sections -5(b) and -6(c) of this bill codify the case law which has limited these charges.

(3) Including underlying securities of unclaimed dividend interest checks as unclaimed property. Chapter 523, Hawaii Revised Statutes, provided a presumption of abandonment of unclaimed dividend or interest checks but did not cover the underlying ownership interest represented by issued and outstanding securities certificates. This bill specifically covers such securities even though they are not in the possession of the issuer.

(4) Establishing a retention period for records of unclaimed property. It also requires holders who have records of the last known address of the owners to retain them for ten years after the property becomes reportable. This is a new provision not covered under the existing statute.

Since many other states have either introduced or are contemplating introduction of similar revisions to their unclaimed property laws in their respective state legislatures, your Committee believes that it is appropriate for the State to conform its statutes to maintain uniformity in its unclaimed property laws with those of other states.

Your Committee has amended the bill by substituting "payroll checks" for "unpaid wages" and "checks payable" for "amounts due and payable" in the definition of intangible property. The purpose of this amendment is to clarify that the State shall not be responsible for any amounts or accounts payable, but rather, shall be entitled to amounts or accounts receivable.

Your Committee has also made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 115, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 115, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 344 Judiciary on S.B. No. 122

The purposes of this bill are to allow the department of health to receive full reimbursement for costs incurred in searching for records, to require the submittal of proof or substantiating evidence by persons seeking to amend an existing record, and to clarify the conditions under which the agency may be liable for damages and costs to an individual.

The present law prohibits the agency from charging an individual for costs incurred in searching for records, which are sometimes old and obscure. The change will allow the agency to recoup some of its expenses.

The present law also does not require an individual to submit proof or substantiating evidence while applying for an amendment to an existing record. The change will better enable the agency to make a determination.

Finally, the present law states that the agency may be held liable for damages and costs if the agency "acted in a manner which was intentional or wilful," which encompasses all acts of the agency which are mandated by law. The change will specify that an employee must be shown to have knowingly violated a provision of the section before the agency can be found liable.

Your Committee amended the provisions of the bill pertaining to Section 92E-7 for clarification.

In addition, your Committee made nonsubstantive technical amendments.

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

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 345 Judiciary on S.B. No. 441

The purpose of this bill is to create a new, more serious offense of endangering the welfare of a minor, which will be a class C felony. It also renumbers the present statute making child endangering a misdemeanor and deletes repetitious language describing a minor.

Currently, the statute is directed towards the violation of a duty by a parent or guardian to the protection of their children. The bill is designed to expand the

existing law to include (1) persons who in situations they know would cause bodily injury or death, cause a minor to suffer physical or mental pain, and (2) persons who have the care and custody of a minor and knowingly place the minor in a situation where the minor could be endangered.

Your Committee finds that establishing a felony offense for cases of child abuse or mistreatment will serve as a deterrent and thereby protect more children.

Your Committee also made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 441, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 441, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 346 Judiciary on S.B. No. 445

The purpose of this bill is to include within the offense of promoting gambling in the first degree, having due and payable more than \$1,000 in any one day, pursuant to any gambling scheme or enterprise.

Presently, the law requires that a person must actually receive more than \$1,000 in any one day in order to be prosecuted for gambling in the first degree, which requires the police to observe the physical transfer of the money from one person to another person.

Your Committee finds that the police often confiscate gambling records indicating that more than \$1,000 is due and payable to an individual in one day of a gambling scheme.

The individual, however, escapes prosecution because the police did not witness the individual "receive" the money.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 445, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 445, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 347 Judiciary on S.B. No. 570

The purpose of this bill is to create a new section in the Penal Code outlawing activities relating to dog fighting.

Your Committee finds that the inhumane practice of dog fighting appears to be growing in popularity. Testimony received indicated that such activities are on-going, at least on Oahu.

Although these practices may be prosecuted under the cruelty to animals section of the Penal Code, your Committee finds that this bill imposes a greater sanction (class C felony as opposed to misdemeanor), and specifically prohibits the various stages of dog fighting, such as the training process.

Your Committee has deleted the provisions regarding spectators as possibly unconstitutional.

Your Committee amended this bill by providing that if there is any conflict between the provision created by this bill and the existing provision on cruelty of animals, section 711-1109, Hawaii Revised Statutes, or any other provision of law, this new provision will apply.

Your Committee made nonsubstantive, technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No.

570, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 570, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 348 Judiciary on S.B. No. 617

The purpose of this bill is to amend present law regarding quiet title actions.

The bill requires that a person claiming land by adverse possession must show that he acted in good faith under claim of right or color of title.

Large amounts of land in Hawaii have been acquired by parties who knew that they did not have any interest in the property. In many other states, good faith is a necessary element in actions for title by adverse possession.

This bill also requires that service by publication on defendants in quiet title actions be made by publishing notices in an English language newspaper with state-wide circulation.

Presently, notice is only required to be published in newspapers circulated in the circuit in which the action has been instituted. Your Committee received testimony that in many quiet title actions, the property claimed is in the neighbor islands but most of the heirs to the lands reside on Oahu. The purpose of the proposed change is to afford fair and effective notification in quiet title actions.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 617 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 349 Judiciary on S.B. No. 915

The purpose of this bill is to amend Section 701-108, Hawaii Revised Statutes, to conform to the 1982 amendment to Article I, Section 10, of the Hawaii State Constitution by specifying that prosecution may be commenced upon the filing of a complaint.

Your Committee finds that under the new procedure promulgated by the Supreme Court, a complaint rather than an information will be the charging document following the preliminary hearing. The amendment recognizes this procedure.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 915 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 350 Judiciary on S.B. No. 1093

The purpose of this bill is to amend election laws so that a political party which qualifies for three general elections shall be deemed qualified as a political party for the following ten-year period.

Presently, party qualification statutes are written in such a manner that the two major parties in Hawaii automatically appear on the ballot without the need to qualify. However, other parties wishing to enter the political arena must qualify for every election, regardless of the number of votes previously received.

Your Committee finds that providing voters a wider range of choice may help reduce public apathy to the election process.

Your Committee amended the bill to make it clear a party must qualify in three consecutive elections as a condition for the ten-year period of qualification.

Your Committee deleted SECTIONS 3 and 4 of the bill which would have amended present provisions on party rules and disqualification.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1093, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1093, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 351 Judiciary on S.B. No. 1113

The purpose of this bill is to allow a tax deduction of up to \$100 for contributions by an individual to any committee, association, or organization that is organized as a campaign committee for a candidate for a federal, state, or local election.

Under current law, individuals may claim deductions up to \$100 for contributions to each candidate who has agreed to abide by the campaign spending limits, not to exceed \$500 in any year and may deduct up to \$100 for contributions to any central or county committee of a qualified party.

This measure would permit a tax deduction to candidates who have not agreed to abide by the voluntary campaign spending limits.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1113 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 352 Judiciary on S.B. No. 1172

The purpose of this bill is to allow a minor's custodial parent to petition the court to change the name of the minor if the noncustodial parent does not consent.

Testimony by the Lieutenant Governor's Office indicated that in approximately three to five cases per month, the custodial parent is unable to obtain the consent from the noncustodial parent to the name change. Under present law, there is no recourse for the custodial parent. The bill would change that by permitting that parent to seek relief in court.

Your Committee made the following amendments to the bill:

1. It clarified that since Family Court has jurisdiction over proceedings involving children, it should be designated the appropriate court in which the custodial parent files a petition to change the child's name without the consent of the noncustodial parent.
2. It made technical, nonsubstantive changes to clarify the bill's intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1172, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1172, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 353 Judiciary on S.B. No. 1201

The purpose of this bill is to extend the duration of a protective order by a family court to prevent domestic abuse from ninety days to one year.

Presently, the duration of protective orders often requires repeated applications for extension. This bill will permit the court to enter a protective order effective for up to one year from the date of the initial order.

Your Committee has made a technical, nonsubstantive amendment to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1201, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1201, S.D. 1, and be placed on the calendar for Third

Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 354 Judiciary on S.B. No. 248

The purpose of this bill is to provide for indirect initiative, except as to matters pertaining to appropriation of public funds and the levy of taxes.

Your Committee received numerous testimony in favor of initiative. Some testimony was submitted in opposition to this bill, primarily relying upon the opinion that certain issues may be too complex and hence not adaptable to initiative and that initiative may be used by special interest groups to the disadvantage of the general public. Your Committee finds the reasons cited against this bill are unwarranted since the bill provides for legislative review and modification of matters proposed by initiative. Your Committee further finds that initiative, as proposed by this bill, would supplement and not supplant the legislative process.

Your Committee made the following substantive amendments:

- (1) The requirement that signatures on the initiative petition be dated no more than one year prior to the date of the filing of the petition was added to assure timeliness of the initiative measure and to demonstrate current and continuing public concern for the measure.
- (2) The bill calls for voter information pamphlets relating to the initiative measure; your Committee amended the bill to require that such pamphlets be sent to the residences of registered voters, instead of "each individual place of residence in the State". This amendment is a cost savings attempt, especially in view of the fact that nearly two-thirds of the population of the State are not registered to vote.
- (3) The amendments to Article XVII, Section 5, were deleted; the existing text of the Section addresses conflicts between proposals made by the constitutional convention and proposals made by the legislature. For purposes of clarity, your Committee added a second paragraph to this section, which addresses conflicts between initiative proposals and constitutional convention or legislative proposals. The provisions for conflicts in Section 2 of the bill were deleted and assimilated into the provisions relating to Article XVII, Section 5.

Your Committee made further amendments which were nonsubstantive, technical and grammatical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 248, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 248, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 355 Judiciary on S.B. No. 358

The purpose of this bill is to amend section 703-302, Hawaii Revised Statutes, by defining and clarifying the conditions for application of the "choice of evils" defense to those escaping from correctional or detention facilities or from custody.

In 1977, the Hawaii Supreme Court in *State v. Horn*, 58 Haw. 252 (1977), held that section 707-302, Hawaii Revised Statutes, could be interpreted to allow use of the defense without reference to any specific threat to an inmate. The traditional test, however, in the majority of states and the federal courts has been that the defense is only applicable when the following five conditions have been met:

- (1) The prisoner is faced with a specific threat of death, forcible sexual attack or substantial bodily injury in the immediate future;
- (2) There is no time for a complaint to the authorities or there exists a history of futile complaints which make any result from such complaints illusory;
- (3) There is no time or opportunity to resort to the courts;

- (4) There is no evidence of force or violence used towards prison personnel or other innocent persons in the escape; and
- (5) The prisoner immediately reports to the proper authorities when he has attained a position of safety from the immediate threat.

Your Committee received testimony in favor of this bill from the Department of the Attorney General and the Honolulu Prosecuting Attorney. Your Committee finds that the bill would conform Hawaii's use of this defense to most other jurisdictions by requiring a specific threat for use of the defense and generally tighten up on the requirements on the use of this defense in escape situations.

Your Committee made technical nonsubstantive amendments to the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 358, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 358, S.D.1, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 356 Judiciary on S.B. No. 563

The purpose of this bill is to further limit the availability of Deferred Acceptance of Guilty (DAG) pleas. The bill sought to deny DAG pleas in cases of prostitution, promoting drugs, traffic violations, and violations of the Statewide Traffic Code.

Your Committee finds that the use of DAG pleas began in 1970. The Judiciary testified that the use of DAG pleas "has been extremely successful in terms of low recidivism."

Recognizing that drug offenses occur in varying degrees of seriousness, your Committee amended the measure by permitting a DAG plea when the offense charged is promotion of a detrimental drug in the third degree (usually, possession of any amount of marijuana).

Your Committee further amended the bill by permitting DAG pleas in traffic violations and violation of the Statewide Traffic Code. Your Committee notes that although the statute may not prohibit a DAG plea for a specific offense, the judge may, upon reviewing the defendant's history, deny the application for a DAG plea. In those classes of offenses within which wide varieties of acts are proscribed, the granting or denying of DAG pleas should be left to the discretion of the court and handled on a case-by-case basis.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 563, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 563, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Mizuguchi, Machida and A. Kobayashi.

SCRep. 357 Judiciary on S.B. No. 630

The purpose of this bill is to provide that a parolee who violates his parole may be returned to prison for the remainder of the original sentence.

Presently, statute sets the maximum term of recommittal for a parole violator at 10 years. This measure extends the jurisdiction of the Hawaii Paroling Authority (HPA) over the parolee until the end of the original sentence.

Your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 630, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 630, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 358 Judiciary on S.B. No. 665

The purpose of this bill is to expedite the enforcement, in this state, of judgments rendered by other states of the nation.

Article IV of the United States Constitution declares that judgments rendered in one state shall be entitled to full faith and credit in any other state.

Presently, in order to enforce a judgment rendered in another state, the courts require that a proceeding be initiated to establish the foreign judgment before it is accorded full faith and credit. This bill simplifies the procedure by requiring only the filing of an authenticated judgment, in lieu of a hearing on the matter.

Your Committee finds that the proposed procedure would simplify, expedite, and reduce the cost of enforcing foreign judgments.

Your Committee amended the bill as follows:

1. Deleted reference in the bill to "authenticated in accordance with the act of Congress or the statutes of this state" and substituted "exemplified" therefor. The substance of this amendment is to permit certified judgments to be filed and to clarify the requirements of filing.
2. Required a \$30 filing fee. This amount is consistent with the filing fees of Circuit Court complaints, Family Court complaints, etc.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 665, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 665, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 359 Judiciary on S.B. No. 914

The purpose of this bill is to establish a statewide "one week or one trial" system for jury service effective January 1, 1985.

Pursuant to H.R. No. 127, Eleventh Legislature of the State of Hawaii, Regular Session of 1982, the judiciary commissioned the National Center for State Courts in San Francisco, California to study and make recommendations on how to best implement a "one day or one trial" jury system in the State.

This judiciary administration bill provides for the implementation of the recommendations set forth in the National Center's study. I makes a number of amendments to chapter 612, Hawaii Revised Statutes, by eliminating jury commissions, exempting only attorneys and federal and state judges from jury service, reducing the service period of a jury panel from thirty days to one week, and affording the judiciary the flexibility to streamline the administration of the jury system through the adoption of rules to implement the creation of a "one week or one trial" system in this State.

It is the belief of your Committee that this bill provides the solution to what our citizenry currently considers a burdensome task. Instead of long periods of required jury service necessitating numerous exemptions, this system requires short duty and few exemptions, this system requires short duty and few exemptions, surely improving the attitudes of jurors and providing for a fresh and broad cross-section of the community involved in the jury system.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 914, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 914, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 360 (Majority) Judiciary on S.B. No. 1142

The purpose of this bill is to amend the Constitution of the State of Hawaii to

provide for appointment of district court judges through the Judicial Selection Commission. This bill also proposes to reduce the number of nominees submitted by the commission to the Governor from six to three.

Presently, vacancies in the office of the chief justice, supreme court, intermediate appellate court, and circuit court are filled through the Judicial Selection Commission, which submits the names of six qualified individuals to the Governor for each vacancy. The Governor, with the consent of the Senate, appoints one of the six individuals to fill such vacancy.

Your Committee finds no rational basis for exempting district court judges from the judicial selection process. The responsibilities of a district court judge are as significant as those of a circuit court judge. Thus, district court judges should be selected in a manner comparable to circuit court judges, and should be subject to the same screening process.

Your Committee amended the bill by increasing the number of nominees submitted by the commission from three to six. Your Committee finds that the intent of the judicial selection process is better served by this amendment, as the Governor would select from a greater range of backgrounds and experience.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1142, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1142, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.
Senator Kuroda did not concur.

SCRep. 361 Judiciary on S.B. No. 1215

The purpose of this bill is to specify that a child witness shall have the right to have an attorney, parent or other adult present in all Family Court proceedings.

Testimony from the Family Court supported the intent of the bill as a notable recognition of the need to protect a juvenile witness' rights. Your Committee finds that allowing the child to have a familiar or trusted adult present would ease the child's fear and confusion of the court proceedings, and better enable the child to testify.

Your Committee made the following changes to the bill:

1. Amended 571-41, relating to procedures in abuse, neglect, and juvenile offense cases in lieu of section 571-11, relating to Family Court's jurisdiction. The former section is the more appropriate place for the amendment.

2. Clarified that the child should be permitted to have a parent, guardian, or other adult and an attorney present rather than having to choose only one adult to accompany him or her. The child who is a witness in court needs to have both the reassurance and comfort of a close relative and the knowledge and assistance of an attorney.

3. Made technical, nonsubstantive changes to the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1215, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1215, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and Kobayashi.

SCRep. 362 Judiciary on S.B. No. 1444

The purpose of this bill is to provide children prompt and ample protection from abuse and other harm, and to provide an opportunity for timely reconciliation of children with their families where practicable, and to provide timely and permanent planning for children.

Your Committee heard testimony in support of this bill from the Oahu Children's

Protective Services Center Advisory Committee, which noted that the bill: (1) organizes in one chapter the relevant procedures and actions that may be required for family protection services by the family court and other relevant agencies, (2) clearly spells out terms relevant to the implementation of family protective services, and (3) sets up a system of service plans that clearly set forth actions required on the part of the family.

Your Committee has made a number of nonsubstantive, technical amendments to the bill, including the deletion of paragraph numbers in the definitions. The definitions are already listed in alphabetical order, thus making them easy to find. Eliminating the numeric designations will substantially facilitate future amendment if the Legislature subsequently decides to add a new definition or delete an existing one. If the numbers are left in, the entire lengthy definitions section will have to be reprinted for the sole purpose of altering the numbers. By deleting the numbers, only the definition added or deleted needs to be reproduced. The sections in the chapter have also been renumbered to conform to the numbering system used in the Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1444, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1444, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 363 Judiciary on S.B. No. 27

The purpose of this bill is to protect from attachment, execution, or forced sale, the personal property necessary to a debtor in the debtor's trade, occupation, or profession; whether the debtor is an individual, a sole proprietorship, a partnership, or a privately owned corporation.

Currently, the law extends this protection to "individuals" only. This discriminates against individuals who have incorporated, who are sole proprietors, or who have entered into partnerships.

Your Committee deleted the word "personally" from line 17 of page 3, which preceded the phrase "owned and used by the debtor", as your Committee is of the opinion that a partnership, company, or corporation cannot "personally own" any property. Your Committee made other nonsubstantive grammatical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 27, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 27, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 364 (Majority) Judiciary on S.B. No. 47

The purpose of this bill is to impose civil liability upon shoplifters beyond the limits already imposed by the common law.

Under the common law, the shoplifter's civil liability extends only to the actual damages sustained by the rightful owner of the item taken.

As proposed by this bill, the common law is modified in that the shoplifter would not only be liable for actual damages to the owner, but would also be liable for the retail value of the item (even though the item is recovered by the owner) and a civil penalty of \$100-\$200. This bill also holds the parents or guardian of a minor responsible for actual damages, the retail value of the item, and the civil penalty.

Your Committee received testimony that the recidivism rate among shoplifters is extremely high. Projected losses due to shoplifting are passed on to the consumer in the form of higher prices. This measure would penalize the shoplifter, in addition to any other criminal sanctions.

Your Committee amended the bill by deleting the section limiting the shopkeeper's liability for false arrest because such limited immunity already exists in section

707-722, Hawaii Revised Statutes. Further amendments were made by deleting the provisions pertaining to additional civil penalties ranging from \$100-\$200; the imposition of criminal liability and civil liability for actual damages plus the retail value of the items are deemed sufficient.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 47, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 47, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.
Senator Abercrombie did not concur.

SCRep. 365 Judiciary on S.B. No. 205

The purpose of this bill is to extend the time for a child or a child's personal representative to file a paternity action to three years beyond the age of majority. The bill also allows a person who, or agency which, provided financial support to the child to bring an action and clarifies to whom a summons may issue.

The present law requires an action to establish paternity be brought within three years of the child's birth. If the child's mother refuses, neglects, or fails through ignorance of the law to file within the three-year period, the child is forever barred from securing support. This, in effect, penalizes the child through no fault of the child's.

The statute of limitations was intended to protect the alleged father from having to defend an accusation of paternity after too long a period of time has elapsed. However, with modern technological use of scientific evidence to test red and white blood cells, the exclusion rate is 98-99 per cent in paternity cases; thus the problem with old or stale evidence is greatly reduced.

Your Committee heard testimony in support of the bill from the Department of Social Services and Housing, the Department of Corporation Counsel, County of Maui, and the Department of Corporation Counsel, City and County of Honolulu. The Family Court supported the provision of the bill allowing a person who, or agency which, provided financial support to the child to bring an action.

Your Committee amended the bill to specify that the Department of Social Services and Housing which is providing or has provided public assistance to the child under chapter 346, Hawaii Revised Statutes, also may bring a paternity action. This appears to be the intent of the original bill as no one testified as to why any other person who, or agency which, provided financial support for the child should be allowed to bring an action.

Your Committee also made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 205, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 205, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 366 Judiciary on S.B. No. 241

The purpose of this bill is to ensure that examiners who testify as experts in penal proceedings where mental illness is an issue are qualified to do so.

The Hawaii Crime Commission and Department of Health have testified in support of the intent of the bill.

Your Committee has amended the bill by replacing its contents with revised contents of S.B. No. 568. The bill, as amended, requires examiners of a person under sections 704-404, 704-411, 704-414, and 706-603, Hawaii Revised Statutes (HRS), to be certified as to forensic qualifications. The Department of Health is required to establish an examination to test each applicant and certify the applicant if passing the examination. To qualify to take an examination, an applicant is required to have accumulated at least five hundred hours over a period of ten years in direct clinical

experience with forensic clients. At least eight of those years are required to have been in post-doctoral experience. A holder of a forensic diploma, awarded by the American Board of Forensic Psychology or American Board of Psychiatry and Neurology, is exempt from the experience and examination requirements, except that the holder is required to pass that part of the examination dealing with relevant state law.

In addition, your Committee has repealed the provision under sections 704-404, 704-411, and 704-414, HRS, requiring the panel examining a person to consist of a certified clinical psychologist, psychiatrist, and either a certified clinical psychologist, psychiatrist, or qualified physician. Instead, the bill, as amended, requires the panel to consist of three certified forensic examiners. Your Committee also has required the panel conducting a pre-sentence examination of a defendant under section 706-603, HRS, to consist of three certified examiners. Under current law, the panel is required to consist of at least one psychiatrist, physician, or certified clinical psychologist.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 241, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 367 Judiciary on S.B. No. 312

The purpose of this bill is to require the court to dispense with a pre-sentence diagnosis and to immediately impose sentence on a person convicted of a crime subject to a mandatory minimum sentence.

Your Committee finds that it serves no useful purpose to delay imposing sentence, pending completion of a pre-sentence diagnosis, in situations where the court has no discretion in sentencing.

Your Committee amended this measure by further qualifying the circumstances in which the provisions of this bill would apply. As received, the bill required immediate imposition of sentence when the defendant is convicted of an offense that "is subject to a mandatory minimum sentence". Your Committee notes that there exist offenses that are subject to mandatory minimum jail sentences but which may be suspended or subject to probation if the court so decides; in those circumstances, the provisions of this bill should not apply. Your Committee added the phrase "and for which a suspended sentence or probation is not permitted" to the reference to "mandatory minimum sentence".

Your Committee amended the bill for purposes of clarification and made other nonsubstantive technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 312, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 312, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 368 Judiciary on S.B. No. 315

The purpose of this bill is to revise the campaign contribution laws in the following respects:

1. To define "fund raiser" as an event costing more than \$100 to attend; presently, the threshold is \$25.
2. To increase the contribution ceiling from \$2,000 to \$5,000 per candidate per election.
3. To increase, from \$100 to \$500, the threshold when an contributor must be identified in the campaign spending reports.

The bill adjusts the limits to more realistically reflect the high costs of campaigning. Since the campaign contribution laws were enacted in 1979, the costs of campaigning have increased steadily. This bill would conform the campaign contribution laws to today's costs.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 315 and recommends it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 369 Judiciary on S.B. No. 349

The purpose of this bill is to extend, from 15 to 40 days, the time allowed for the preparation and transmission of the record of an administrative hearing when the agency decision is being appealed.

Presently, state and county agencies have 15 days to: gather and index all correspondence, documents, and exhibits; transcribe the recording of the hearing; and file the record in court. This period is not always sufficient when the record is voluminous.

Your Committee finds that an extension is warranted; however, the suggested increase to 40 days is excessive. If an appealing party files a preliminary motion, such as a stay of the agency's order pending appeal, a 40 day wait for a hearing on the motion could render it useless.

Your Committee amended the bill to increase the present 15 day period to 20 days. Also, a nonsubstantive, technical amendment was made.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 349, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 349, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 370 Judiciary on S.B. No. 356

The purpose of this bill is to establish a statute of limitations for post conviction proceedings by amending Chapter 657, Hawaii Revised Statutes. Presently there is no time limitation for the initiation of post conviction remedies such as writs of habeas corpus. It is, therefore, possible for such actions to be brought, and indeed such actions have been brought, many years after the conviction when evidence has become stale or witnesses have become unavailable. The three-year time limitation provided for in this bill affords one convicted of a crime ample opportunity to challenge his conviction or the legality of his confinement.

Under the bill, a defendant has three years from the date of discovery of any new evidence to bring an action for post conviction remedy. If, for example, many years after his conviction new evidence is disclosed, his right to initiate an action is not precluded. Also, if there is a pronouncement of a new constitutional right retroactively applicable to him, he has three years in which to initiate an action. Your Committee received testimony from the Department of the Attorney General and the Honolulu Prosecuting Attorney's office in support of this bill. Your Committee believes the bill presents a fair method to limit the use of post conviction proceedings without interfering with the defendant's right to due process. The three-year limit is patterned after the federal law and affords a person ample time to seek post conviction relief.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 356 and recommends that it pass Second Reading, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 371 (Majority) Judiciary on S.B. No. 446

The purpose of this bill is to create two classes of incest and to include deviate

sexual intercourse within the definition of incest.

Presently, there is only one class of incest, a class C felony. This bill raises the offense of incest with a minor to a class B felony and makes incest among adults a class C felony.

This bill also closes a loophole in the law by including deviate sexual intercourse within the meaning of incest. Presently, a parent who engages in deviate sexual intercourse with his child may escape prosecution because such acts are not included within the definition of incest. (Usually forcible compulsion is lacking, therefore the parent is not prosecuted for sodomy.)

Your Committee made nonsubstantive technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 446, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 446, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.
Senator Cayetano did not concur.

SCRep. 372 Judiciary on S.B. No. 478

The purpose of this bill is to provide that upon entry of a final divorce decree in which the division of property has been deferred, the property rights of the parties will be governed by the provisions of the Uniform Probate Code, chapter 560, as well as the provisions of the Descent of Property, chapter 533, and other relevant provisions. The bill also changes the time limit to resolve the property division from one year to two years.

Spousal rights in property are established by the Uniform Probate Code, enacted in 1976. This measure would harmonize chapter 580 with the Uniform Probate Code.

Your Committee declined to extend the time period to determine the reserved issue of property division from one year to two years because it finds that parties to a divorce should be encouraged to resolve this issue as speedily as possible. Extending the time would only cause the parties to delay or protract litigation.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 478, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 478, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 373 Judiciary on S.B. No. 484

The purpose of this bill is to eliminate in proceedings for the appointment or removal of a guardian of the property involving minors, the requirement of notice to grandparents of the minor except when one or both of the parents are deceased.

Your Committee finds that when the parents of a minor are living, notice to grandparents in such protective proceedings is unnecessary, costly, and may cause disharmony within the family.

This bill would require notice to grandparents only when both parents are deceased or to one set of grandparents when one parent is deceased.

Your Committee has made technical, nonsubstantive amendments for clarification to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 484, as herein amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 484, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 374 Judiciary on S.B. No. 485

The purpose of this bill is to change the definition of a "young adult defendant" as one who is between sixteen and twenty-two years of age at the time of the offense, rather than the time of sentencing.

Presently, sentencing of a defendant may occur as long as two years after the crime had been committed. It would be unfair to penalize young defendants for factors beyond their control. In addition, this amendment would deny classification as a young adult defendant to those persons who are found responsible for a felony between the time of the offense and sentencing.

The Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 485, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 485, No. S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 375 Judiciary on S.B. No. 499

The purpose of this bill is to clarify the authority of the Chief Justice to temporarily assign district judges to family court.

This bill makes changes to section 571-8, Hawaii Revised Statutes, to make it clear that the Chief Justice may:

- 1) designate a district judge to substitute for and act as a district family judge; and
- 2) temporarily assign any district judge or district family judge to the district family court of another circuit.

Your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 499, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 499, No. S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 376 Judiciary on S.B. No. 534

The purpose of this bill is to amend the present rape and sodomy statutes.

Specifically, this bill deletes the requirement, regarding rape and sodomy in the first degree, of infliction of serious bodily injury. The bill also eliminates the "voluntary social companion" defense that the victim had permitted sexual intercourse, or deviate sexual intercourse in the case of sodomy, within the previous 30 days.

This bill also eliminates from the definition of rape and sodomy in the first degree sexual intercourse, or deviate sexual intercourse in the case of sodomy, with a person less than fourteen years old.

Finally, the bill deletes the requirement of forcible compulsion regarding rape and sodomy in the second degree.

Your Committee finds that rape and sodomy are both crimes of violence and acts of aggression, and hence should be treated similarly. Since these crimes are by their nature crimes of violence, your Committee finds no basis to require serious bodily injury.

Your Committee heard testimony for the Honolulu Prosecuting Attorney's office strongly supporting the passage of this bill. Your Committee amended the social companion provision in 1981, from twelve months to thirty days, with the understanding that this issue would be addressed in subsequent legislative sessions. In 1981, the Honolulu Prosecuting Attorney's office expressed their concern with the amended version of the social companion provision. In testimony before your Committee they now state, "The time has come for the passage of this bill."

Your Committee amended the bill by incorporating the definition of "forcible compulsion" in the sections pertaining to rape and sodomy in the first degree.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 534, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 534, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 377 Judiciary on S.B. No. 578

The purpose of this bill is to require certification of bail bondsmen by the circuit court of the judicial circuit in which the bail bond is to be posted.

Your Committee finds that currently, no such certification is required and that often times, the bail bondsman is unable to pay the full amount of the bail when the court orders forfeiture. Certification would ensure that the bail bondsman is capable of fully discharging the bond obligation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 578 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 378 Judiciary on S.B. No. 631

The purpose of this bill is to lower the standard of proof in civil commitment proceedings from beyond a reasonable doubt to clear and convincing evidence.

Your Committee heard testimony from the Department of Health, the Hawaii Nurses Association, and several members of the Hawaii Families and Friends of Schizophrenics, all in support of the bill. They expressed their dissatisfaction and frustration with the present system which, in effect, requires mentally ill people to hurt themselves or others before they can receive appropriate care and treatment through involuntary hospitalization. The Honolulu Prosecuting Attorney and the Family Court also voiced their support of the bill.

In addition, your Committee heard testimony in opposition to the bill from the Public Defender's Office, the Mental Health Association in Hawaii, and the American Civil Liberties Union. They raised the concern that since mentally ill people risk losing their personal liberty and freedom in involuntary commitment proceedings, the standard should remain the highest of the three standards of proof (beyond a reasonable doubt, clear and convincing evidence, and preponderance of the evidence) to fully protect the rights of the mentally ill.

After a full and free discussion, your Committee carefully balanced the competing needs of the individual, the individual's family and friends, and the community. Your Committee finds that in determining whether a person should be involuntarily committed pursuant to the three criteria of section 334-60(b)(1), Hawaii Revised Statutes, evidence that the person is mentally ill or suffering from substance abuse and is dangerous to self, others, or property must be by proof beyond a reasonable doubt, whereas evidence that the person is in need of care and treatment and that there is no suitable alternative to hospitalization can be by clear and convincing evidence. Since the first two criteria go to past behavior and acts, the highest standard should be retained because evidence of what occurred in the past should not be that difficult to obtain. However, since the last criteria goes more to a prediction of the need for care and treatment, the lower standard can be used because there may not be the same quantity or quality of evidence available for a prognostication. Your Committee amended the bill accordingly to best serve the

interests of the mentally ill person and society as a whole.

Your Committee also made two amendments to the bill pursuant to the recommendations of Family Court. First, section 334-60(b)(6) was changed to allow the administrator of a psychiatric facility to discharge the patient without an order of the court if no one files an objection. Presently, when the administrator intends to discharge a patient at the expiration of the commitment period or when the administrator believes the commitment is no longer necessary, the Family Court must still hold a hearing on the discharge even though no one objects. This creates needless and burdensome work for the court. Second, the same paragraph was amended to clarify that if an objection is filed, the court shall hold a hearing to determine whether or not the patient still meets the criteria for involuntary commitment. The amendment also requires the court to order discharge if the patient does not meet the criteria or to deny discharge if the patient does. The current statute does not explicitly authorize the court to deny the discharge.

Your Committee also made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 631, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 631, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 379 Judiciary on S.B. No. 694

The purpose of this bill is to eliminate several liability between joint tortfeasors and to limit a defendant's liability to the degree of that defendant's negligence.

Presently, a successful plaintiff may recover the full amount of his or her damages from either or both defendants, regardless of their respective degrees of negligence.

The following situation will best illustrate the point: assume that plaintiff (P) successfully sues two defendants (D-1 and D-2) for personal injuries in the amount of \$100,000. Assume further that the jury finds P 20% negligent (thereby contributing to his own injuries), and D-1 75% negligent, and D-25% negligent. Since P was 20% negligent, he is entitled to recover 80% of his damages (\$80,000) from either D-1 or D-2, or both D-1 and D-2. Assume also that D-1 is an uninsured motorist and D-2 is the State. Under these circumstances, P will invariably seek the full \$80,000 from D-2, even though D-2's negligence was only 5%, and in fact was less than P's negligence.

As proposed by this bill, D-1's liability would be \$75,000 and D-2's liability would be limited to \$5,000. P would not be entitled to recover the full \$80,000 from D-2.

Your Committee received testimony in support of this bill from Hawaii County, City and County of Honolulu, Maui County, and the City Council of the City and County of Honolulu. Support for the bill may be summarized as follows: Why should one defendant be responsible for the other defendant's liability?

The Hawaii Academy of Plaintiff's Attorneys (HAPA) submitted testimony opposing the bill, which may be summarized as follows: Who is better able to bear the burden of the injury, the plaintiff (who may or may not be marginally negligent) or the defendants, who collectively are responsible for all or the greater portion of the plaintiff's injuries?

Your Committee amended the bill to retain several liability among joint tortfeasors except in the instance where one defendant's negligence is less than the plaintiff's negligence. Thus, in the situation illustrated above, P would be entitled to recover \$5,000 from D-2. Your Committee finds this proposed statutory scheme to be more equitable. As amended, the bill embraces the principal that a joint tortfeasor should not be held responsible for all of the injured party's damages when the injured party is more to blame for his or her own injuries than such tortfeasor.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 694, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 694, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 380 Judiciary on S.B. No. 752

The purpose of this bill is to propose a new section to be added to Article II of the constitution of the State of Hawaii to require that a candidate be elected or nominated only upon a majority vote of all votes cast for all the candidates in that election.

Your Committee has amended this bill by deleting the proposed new section and by adding a new proposed section providing that no blank ballot or spoiled ballot shall be included in the total of votes cast or tallied for a candidate or on a question in any election.

Your Committee finds that blank and spoiled ballots are invalid ballots for counting purposes, since they do not constitute votes for or against a candidate or a question. Including such ballots in the total of votes cast or tallied can cause misunderstanding and confusion to the electorate.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 752, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 752, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 381 Judiciary on S.B. No. 890

This bill provides that the use of a credit card number, without the consent of the cardholder, for the purpose of obtaining money, goods, services, or anything of value, is a violation subject to a fine of \$1,000 or imprisonment of not more than 1 year, or both, if the total value is \$100 or less in a 6-month period, or a fine of \$3,000 or imprisonment of not more than 3 years, or both, if the value exceeds \$100 in a 6-month period.

Your Committee finds that fraud losses caused by unauthorized use of credit cards is a major problem for credit card issuers. Hawaii being a tourist destination area is prone to a higher level of fraud losses than many other parts of the country. We further find that fraud losses during the last three years have increased dramatically both here and on the mainland. These losses are expected to continue rising in the next year or more.

Presently, the law has been construed to preclude prosecution for the use of a credit card number, as opposed to the credit card itself.

The bill specifies that the fraudulent use of a credit card number is illegal.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 890 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 382 Judiciary on S.B. No. 912

The purpose of this bill is to amend chapter 507, to enable an architect or engineer who has performed any service, labor, or work on any plan or document, that has been presented to any public agency to file a mechanic's lien for payment of his fees.

This bill requires that a notice of presentation of plans or documents be published and filed not less than 120 days nor more than 190 days after the actual presentation of the plans or documents to any public agency.

After the publication and filing of the notice of presentation of plans or documents with the office of the clerk of the circuit court where the property involved is situated, the architect or engineer has forty five days to file his application for a mechanic's lien. If no actual notice of presentation is made, a mechanic's lien may

not be filed without visible commencement of activity on the improvement site.

Single family detached residences are specifically exempted from the provisions of this bill relating to the filing of mechanic's lien prior to visible commencement of activity on the improvement site.

Your Committee received testimony from Judiciary, Hawaii Society (American Institute of Architects), Consulting Engineers Council of Hawaii, Architects Hawaii, and Dennis T. Toyomura (AIA) in support of this bill. The Judiciary presented written testimony that there would not be an extraordinary burden to management operations of the Judiciary. The League of Savings and Loans has some concern but feels the mortgage lenders can be protected through proper title insurance and/or lien waivers.

Your Committee amended the bill at line 5 of page 7 to provide that the "notice of presentation" and not the "notice of publication" shall be filed between 120-190 days after presentation of the plans or documents.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 912, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 912, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 383 Judiciary on S.B. No. 923

The purpose of this bill is to modify the compensation of trustees of charitable trusts. The bill proposes that moneys received from lessees of trust property, which are thereafter paid to the State for real property taxes, be excluded from the computation of trustees' compensation, and further proposes that the percentage schedule used to compute trustees' compensation be modified downward.

Testimony submitted in favor of this measure emphasized that the matter of compensation of trustees is an issue primarily between the trustees and the beneficiaries of the charitable trust, and that increases in trustees' compensation result in commensurate decreases in benefits to the beneficiaries.

Your Committee also received testimony in opposition to the bill, which cited compensation rates for executives of large corporations. Your Committee finds that such an analogy is inappropriate as the earning capacity of a corporation which is taxed is dissimilar to the earning capacity of an entity which is tax exempt.

Under this measure, the compensation for trustees whose trust income is \$205,000 a year or less, will be unaffected.

Your Committee notes that real property taxes may generate passive income to a trust for which the trustees are compensated under present law due to the inclusion of such taxes in trust income. This may occur under the following fact situation. If a trust has leased land on a long-term lease to an individual, under the real property laws the real property taxes are assessed to that individual. If the individual has a mortgage the individual may pay such taxes to a bank for placement in a customer trust fund, the moneys from which are used to pay the real property taxes. If the assessment of real property taxes is appealed, the trust must be joined in the suit as the owner of the leased land and as ultimately responsible for the payment of the real property taxes. If the appeal is won, the recovered real property taxes are paid to the trust which in turn pays such recovered real property taxes to the lessee or to the bank for payment into the customers trust fund.

Your Committee has amended the bill to make it clear that passive income represented by recovered real property taxes or other trust income attributable to real property taxes is to be excluded from the computation of trust revenues and to reflect the fact that real property taxes are collected by the counties, not the State.

For example, the trustees of a trust which receives revenues of \$50 million annually will collectively receive annual compensation in excess of \$1,000,000. This measure would reduce the \$50 million by the amount of real property tax reimbursement received from counties. Assuming that such reimbursement is \$5,000,000, the collective annual compensation of the trustees would be \$464,280.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 923, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 923, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 384 Judiciary on S.B. No. 1091

The purpose of this bill is to allow persons to adopt unrelated adults.

Presently, section 578-1.5, Hawaii Revised Statutes, permits the adoption of an adult niece, nephew, or stepchild.

The adoption of unrelated adults is permitted in a number of other states and is a custom among certain of Hawaii's ethnic groups.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1091 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 385 Judiciary on S.B. No. 1171

The purpose of this bill is to amend section 574-5, Hawaii Revised Statutes, which relates to the procedures and requirements for name changes.

This bill codifies two present administrative procedures of the Lieutenant Governor's office, the state agency which processes change of name requests.

Specifically, the bill requires a notarized consent, to a petition for change of name of a minor, by the noncustodial parent. The bill also requires that documents are to be kept confidential in the case of a name change to protect an individual. Lastly, the bill rewords and restructures section 574-5 for clarity.

Your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1171, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1171, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Machida, Mizuguchi and A. Kobayashi.

SCRep. 386 Judiciary on S.B. No. 1199

The purpose of this bill is to specify that the State shall be liable to any party sustaining property damage or personal injury as a result of acts by a person performing community service as ordered by the court.

Your Committee received testimony by the Judiciary that the practice of ordering community service has proven beneficial to the community and that in the last fiscal year, 3,906 persons were ordered to perform community service; it is likely that the number of convicted persons performing community service will increase each year.

With the increased number of persons performing community service, there is an increased concern pertaining to liability of the State for acts occurring in the course of such community service. This measure will hold the State liable to the person performing community service, the public and private agencies using the service, and the public generally.

Your Committee amended the bill to specify that juveniles adjudged to be law violators by the Family Court are included within the provisions of this measure. Your Committee made further amendments for purposes of clarification and amendments which were technical and nonsubstantive.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No.

1199, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1199, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 387 Judiciary on S.B. No. 1212

The purpose of this bill is to require judges to file annual financial disclosure statements with the State Ethics Commission.

Presently, many members of the executive branch and all the members of the Legislature are required to file annual financial disclosures. The Judicial Selection Commission reviews the financial affairs of judicial candidates, however this scrutiny does not continue after appointment.

Your Committee finds that the Judiciary must be free of conflict of interests in order to maintain its integrity and effectiveness. The annual disclosures required by this bill will obviate even the appearance of bias or prejudice based on the financial interests of judges.

Testimony from the State Judiciary expressed concern about retaining its independence as a separate branch of government. Your Committee is cognizant of the possible imposition on this independence by placing the justices and judges under the purview of the State Ethics Commission, which is administratively attached to the Legislative Auditor's office.

Your Committee recognizes the Judiciary's code of ethics as set forth under its Code of Judicial Conduct. However, upon examination of such, your Committee finds that the code does not totally embrace the constitutional guidelines for financial disclosure, nor does it mandate conformance by the judges. Presently, there is no requirement for a public financial disclosure.

It is the finding of your Committee, based on the above considerations, that in keeping with the Constitutional principle of preserving the integrity and high standards of our government, financial disclosure should be required of all the three branches of government. To this end, your Committee has replaced the provisions of this bill with a proposal to amend Article XIV of the Constitution to include justices and judges. Your Committee finds that a constitutional amendment will retain the independence of the judicial branch of government, as well as provide for the scrutiny presently absent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1212, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1212, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 388 Judiciary on S.B. No. 127

The purpose of this bill is to eliminate sex discrimination in statutes used to determine the surname of children, to clarify the present language in two conflicting statutes as to whether a child takes the father's or mother's surname, and to allow the custodial parent to request a new birth certificate.

Presently, under section 338-177, Hawaii Revised Statutes, a legitimated child born out of wedlock is given the father's surname if the parents do not agree on a surname. However, under section 338-21, Hawaii Revised Statutes, children are given their mother's surname in the absence of a court order or a request providing otherwise. The bill deletes both references to a priority of selection of surnames based on the parents' sex.

In light of complaints received by the Research and Statistics Office of the Department of Health, continuation of the current sex-biased statutory standards will only give rise to more complaints. The present laws are also being challenged in court on the grounds that they violate the constitutional guarantees of free speech and equal protection. This bill will allow the court to determine the surname of the child

based on the child's best interests in cases where the parents do not agree.

This bill also permits the noncustodial parent to request a new birth certificate after a paternity determination. More and more fathers are obtaining custody of their children; this bill will recognize the trend.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 127 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 389 Judiciary on S.B. No. 775

The purpose of this bill is to restate and clarify that the intent of the Legislature in enacting sections 294-6(a) and 294-36(b), Hawaii Revised Statutes, was, and still remains:

- (1) To deter persons from driving without motor vehicle insurance coverage, not only through criminal penalties, but through a limitation on the ability of the uninsured motorist to recover for injuries in tort which is more stringent than the limitations placed upon those who have obtained the coverage required by law; and
- (2) To prevent a person who is ineligible for no-fault benefits from bringing a civil action if the medical-rehabilitative limit is not reached within two years of the date of the motor vehicle accident.

The majority opinion of the Hawaii Supreme Court in *Joshua v. MTL, Inc.* (#8177 December 29, 1982) misread the intent of the Legislature and may have removed all limits on the time in which an uninsured motorist may bring an action for recovery in tort. The effect of the decision is that law abiding citizens who obtain coverage may not sue in tort under section 294-6(a) (2), Hawaii Revised Statutes, unless they reach the medical-rehabilitative threshold within two years of the last payment of no-fault benefits, while persons who have failed to obtain coverage can sue at any time without having to reach the threshold.

The Insurance Division of the Department of Commerce and Consumer Affairs testified that uninsured motorists increase the cost of insurance for those who obtain the coverage required by law and also provide an unnecessary drain on public welfare resources.

The system of no-fault insurance established by chapter 294, can only be effective if all drivers participate to the extent required by law. This bill treats uninsured drivers more severely than those who obtain the legally required coverage with the specific legislative intent of encouraging participation by all drivers in the no-fault insurance system. Since the Legislature has provided for persons economically unable to afford insurance under the public assistance provisions of the no-fault law, there is no valid reason for persons not to have no-fault insurance.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 775, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Holt, Kuroda, Machida, Mizuguchi and A. Kobayashi.

SCRep. 390 Ways and Means on S.B. No. 505

The purpose of this bill is to permanently establish a transition from school to work program within the Department of Labor and Industrial Relations. The Quick Kokua and Career Resource Center programs are made part of the new statewide transition to work system.

This bill has an extensive purpose section, and your Committee is in agreement with the sentiments expressed in that section. The combination of the Quick Kokua and Career Resource Center programs, both of which have provided valuable service to young adults, as a permanent state program will meet the needs of a segment of the population which has not received much attention. The primary, although not exclusive, beneficiaries of this bill will be young adults who have no immediate plans for further education after graduation from high school.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 505, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 505, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 391 Ways and Means on S.B. No. 695

The purpose of this bill is to transfer the authority to determine the penalties and fees for unlicensed and stray dogs as well as the impoundment fees from the State to the counties.

Currently, the counties are responsible for apprehending stray dogs and maintaining shelters for their impoundment. The State, however, has the authority to determine the fees and penalties. This bill would make the counties responsible for both areas.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 695, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 695, S.D. 2.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 392 Ways and Means on S.B. No. 828

The purpose of this bill is to establish an interagency coordination committee for the development and implementation of a statewide occupational information system.

The federal vocational education law mandates the establishment of a statewide occupational information system. This bill would provide for the development and delivery of occupational and career information on a statewide basis and provide for the coordination of this information by the Hawaii state occupational information coordinating committee. Your Committee agrees with the finding of the Committee on Human Resources that there is a need for the coordination afforded by this bill in order to strengthen the planning of employment, education, and training programs and delivery of services to Hawaii's people.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 828, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 828, S.D. 1.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 393 Ways and Means on S.B. No. 1173

The purpose of this bill is to give counties the power to issue tax anticipation notes (TANS).

Currently, the counties' principal source of revenue is from real property taxes which are levied at the beginning of the year but not collected until August and February. However, all of this revenue is appropriated for expenditure and temporary cash shortages may occur before the taxes are collected.

Your Committee finds that the issuance of TANS have the benefits of (1) alleviating temporary cash flow shortages while awaiting the collection of taxes levied for the fiscal year, and (2) providing opportunities for increasing investment earnings.

Your Committee has made minor grammatical and technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1173, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1173, S.D. 1.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 394 Ways and Means on S.B. No. 840

The purpose of this bill is to limit the availability of retirement benefits for certain employees who have entered military service.

Currently, if a member of the employees' retirement system (ERS) leaves a regular position of employment for the purpose of entering the military service, the member is treated as if the member were continuously in the active service of the State or county so long as the member remains in military service. The member is given retirement service credit for the period the member remains in military service; and during that period, the state or county employer is required to pay all contributions payable to ERS by the State, county, or member with respect to that member.

Your Committee finds that under present laws, if a member is ordered to active duty for an indefinite period, the member could accumulate retirement service credit and burden the State or county with the entire cost of employer and member contributions. Conceivably, the member could spend the member's entire working career in the armed forces and upon termination of military service, collect a retirement allowance from the employees' retirement system calculated on the full period of time in the military service without having contributed to the retirement allowance.

Therefore, your Committee supports this bill which would limit the availability of the benefits. Your Committee has amended the bill to change the limit from five years to two years, and has excluded those who volunteer to enter military service from qualifying for the service credit. Various nonsubstantive amendments have been made as well.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 840, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 840, S.D. 1.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 395 Ways and Means on S.B. No. 13

The purpose of this bill is to require the Insurance Commissioner annually to publish in a generally circulated newspaper a list of all noncommercial property insurers and their annual premium rates for homeowners insurance policies.

Your Committee supports the concept of publishing a comparison of homeowners insurance rates for public use. It is noted that in the past, a buyers' guide listing the rates for all licensed insurers in the area of homeowners insurance has been published. In addition to rates, the guide provides other appropriate information designed to assist consumers in purchasing a policy.

Your Committee feels that if the substance of this guide is included in a newspaper release of homeowners insurance rates, the consumer would be well-served.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 13, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 396 Ways and Means on S.B. No. 51

The purpose of this bill is to increase the jurisdictional amounts of small claims courts to \$5,000 and to permit the clerk of the court to assist sole proprietors in preparing documents required to be filed in small claims actions. Presently, only individuals are permitted to receive such assistance.

Since a sole proprietorship is nothing more than an individual in business, the individual often does not have the financial resources of corporations and other business arrangements and therefore should be allowed to seek the assistance of the clerk of the court.

Further, the regular claims division of the district courts are faced with ever increasing caseloads. By raising the jurisdictional limits of the small claims division, it is hoped that their caseloads will become more manageable. Additionally, the costs of pursuing a claim in small claims division is substantially lower than in the regular claims division.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 51, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 397 Ways and Means on S.B. No. 825

The purpose of this bill is to establish a financial assistance fund for the hemophilia-related medical care and treatment of persons suffering from hemophilia.

Your Committee finds that the high costs of treating the hereditary genetic disease of hemophilia necessitate the provision of financial assistance to hemophilia sufferers. This bill will allow the Department of Health to provide direct financial assistance within the limits of available funds to hemophilia sufferers who meet eligibility standards established by the Department.

Your Committee has made the following amendments to the bill:

(1) Changed the appropriation of \$130,000 to an unspecified amount.

(2) Deleted the provision requiring the Department of Health to enter into a contract with the Hemophilia Foundation of Hawaii to implement the purposes of this bill.

(3) Changed the effective date of the bill from its approval to July 1, 1983.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 825, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 825, S.D. 1.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 398 Ways and Means on S.B. No. 208

The purpose of this bill is to clarify existing state law concerning the Aid to Families with Dependent Children (AFDC) program.

This bill repeals section 346-53(c) and section 346-55, Hawaii Revised Statutes (HRS), which were originally enacted to provide enabling authority for state participation in the federal AFDC program. These sections have not been updated to conform to federal amendments to the AFDC program, with the result that state law is inconsistent with federal law. Thus, the administration has proposed to repeal the sections and rely on other broad statutory authority under chapter 346, HRS, to operate the AFDC program.

Your Committee concurs with the administration's proposal for two primary reasons. First, confusion in the operation of the AFDC program will be eliminated and possible future litigation concerning the differences deterred. Second, the Department will have the flexibility to conform to any other subsequent federal changes to the program without further enabling authority.

Your Committee has made one substantive amendment to the bill. Section 346-51, HRS, contains a reference to a subsection in section 346-53, HRS. That reference has been amended to conform to the redesignation of subsections in section 346-53.

Other technical, nonsubstantive amendments also have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 208, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 208, S.D. 1.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 399 Ways and Means on S.B. No. 360

The purpose of this bill is to guarantee that patient employees at Hansen's disease facilities be paid at least the statutory minimum wage.

Currently, patient employees are paid fifty-three per cent to seventy and one-half per cent of the statutory minimum wage, with intervals of three and one-half per cent separating each of six pay steps. This bill deletes the obsolete pay grades and

establishes the statutory minimum wage as the base pay for patient employees.

Testimony by the Department of Health indicates that the intent of the Kalaupapa program is similar to the National Hansen's Disease Center at Carville, Louisiana, where patient employees receive the minimum wage as a therapeutic measure to promote the care, recovery, or rehabilitation of these patients.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 360, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 360, S.D. 1.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 400 Ways and Means on S.B. No. 614

The purpose of this bill is to include the Office of Hawaiian Affairs' proposed general fund appropriation for the operation of the Office in the Governor's financial plan of expenditures and appropriations for the State which is submitted to the Legislature prior to each legislative session.

Your Committee agrees that passage of this bill will allow the Legislature to keep better informed as to the proposed budget request of the Office of Hawaiian Affairs prior to the legislative session. Furthermore, it will encourage the balancing of funding requests from the judiciary, the executive branch, the legislative branch, and the Office of Hawaiian Affairs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 614, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 401 (Joint) Education and Higher Education on S.B. No. 221

The purpose of this bill is to reduce the number of times the Teacher Education Coordinating Committee is to meet within any calendar year.

Under section 304-20, Hawaii Revised Statutes, the committee is required to meet twelve times per fiscal year.

This bill, as amended, will reduce the number of required meetings from twelve to six per year and change the time frame from a fiscal year to a calendar year. The work of the Teacher Education Coordinating Committee, at times, can be executed more efficiently by more sub-committee task force meetings and fewer committee-of-the-whole meetings. The objective of the Teacher Education Coordinating Committee is to convene and conduct business efficiently with full participation by representatives from all teacher education institutions in Hawaii. This bill provides for the attainment of this objective. In addition, it provides for flexibility for meeting more than six times when business of the committee requires it.

As received by your Committees, the bill reduced the number of meetings to ten per calendar year. Your Committees have amended the bill to further reduce the required number of meetings to six per year.

Your Committees on Education and Higher Education are in accord with the intent and purpose of S.B. No. 221, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 221, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 402 Higher Education on S.B. No. 1254

The purpose of this bill is to allow for the awarding of college credits for military training programs. This bill also allows the the awarding of college credits for work and other experiences at the discretion of the University.

Section 305E-1, Hawaii Revised Statutes, currently allows the awarding of college credits to students who are enrolled in a degree or certificate program at the University of Hawaii or at a community college and who have successfully completed at a high school, business school, trade school, or adult education school, courses which

are equivalent to courses which are offered for credit in the University of Hawaii system.

This bill would expand the scope of the University's college-credit equivalency program to include those students who have met the qualifications in Section 305E-1, Hawaii Revised Statutes, and who have successfully completed a military training program. This bill also allows college credits to be awarded to students for work or other experiences at the discretion of the University, provided the students meet the qualifications in Section 305E-1.

Your Committee supports the belief that learning can take place in many settings, and that, where feasible, the University should evaluate valid learning experiences and assist students in the attainment of their educational goals by giving due consideration to certain non-traditional learning experiences.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1254 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 403 (Majority) Higher Education on S.B. No. 1258

The purpose of this bill is to implement the 1978 amendment to the State Constitution which delegates to the Board of Regents, exclusive jurisdiction over the internal organization and management of the University of Hawaii.

This bill amends Section 26-11 of the Hawaii Revised Statutes, by establishing a more meaningful definition of the phrase "exclusive jurisdiction over the internal organization and management of the University." The wording and intent of the new language is substantially similar to that which is found in Standing Committee Report No. 39, Committee on Education, 1978 Constitutional Convention, the pertinent part of which provides:

"Among examples of matters which would fall under the exclusive purview of the Board of Regents, under the proposed amendment, would be the authority to establish or abolish an administrative or program unit, to establish or abolish subordinate offices or positions and to transfer officers and employees between positions, subject only to the limitations of available appropriations and the provisions of such laws of general application as the civil service and collective bargaining laws."

Your Committee finds that the provisions of this bill will conflict with existing laws in the Hawaii Revised Statutes, more specifically, Sections 26-38 and 26-39, which delegates the authority over such matters as discussed previously, to department heads with the approval of the Governor. However, your Committee finds that the Constitutional intent of the 1978 Constitutional amendment is for the Board of Regents and not the Governor, to be the controlling authority in this area where the internal organization and management of the University is affected. The bill contains language to make clear your Committee's intent that the provisions of this bill supersede other inconsistent laws.

It is the intent of your Committee that this bill effect no changes to the authority or review capabilities of the Legislature. The University shall continue to be bound by legislation and appropriations enacted by the Legislature, bound by any general laws affecting State agencies, and would continue to be accountable to the Legislature as the primary law making body of the State. The net effect of the amendment proposed in this bill is to free the University from submitting proposals for organizational and personnel changes to other State departments such as the Department of Budget and Finance and the Department of Personnel Services for review, and to the Governor for subsequent approval. The provisions of this bill will allow the University to conduct such changes internally with the Board of Regents having sole and ultimate authority in this area.

Your Committee agrees that this bill is in keeping with the spirit and intent of the 1978 Constitutional amendment. Additionally, by having such authority rest with the Board of Regents, your Committee believes that the University could move more expeditiously in responding to the organizational and management deficiencies uncovered by the Legislative Auditor in his recent review of the University's organizational and management practices. The University, in turn, would be held more directly accountable for action taken or not taken in response to this, or any other

similar audit.

Your Committee wishes to emphasize that this bill provides a very limited interpretation of the 1978 Constitutional amendment. It does not, by any means, exhaust the application of the phrase "exclusive jurisdiction over the internal management and organization." A precise interpretation of this phrase, however, is elusive and would require a very thorough process of review and analysis.

Your Committee has amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1258, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1258, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Solomon and Yamasaki did not concur.

SCRep. 404 Consumer Protection and Commerce on S.B. No. 19

The purpose of this bill was to regulate the sale of business opportunities in the State.

Presently the Business Registration Division of the Department of Commerce and Consumer Affairs registers franchises, which represent one type of business opportunity. Under The Franchise Investment Law, chapter 482E, Hawaii Revised Statutes, the division receives detailed disclosure statements filed by franchisors.

This bill provides a more complete and comprehensive system to regulate the sale of other types of business opportunities. The bill minimizes losses to the purchaser in cases where the seller or his representative have not provided full and complete information regarding the seller-purchaser relationship, the details of the contract between seller and purchaser, and the prior business experience of the seller. It is the intent of your Committee to provide each prospective purchaser with the information necessary to make an intelligent decision regarding business opportunities being offered, prohibit the sale of business opportunities which would lead to fraud, and to protect the seller by providing a better understanding of the relationship between the seller and the purchaser with regard to their business relationship.

Your Committee has amended the bill by assigning the Director of the Department of Commerce and Consumer Affairs instead of the Director of the Office of Consumer Protection the responsibility of administering and regulating the sale of business opportunities. The role of the Office of Consumer Protection, under existing law, is to investigate, mediate and to take appropriate enforcement action against persons engaging in unfair or deceptive practices which affect the consumer public. The functions provided for in this bill are more appropriately performed by the Business Registration Division under the supervision of the Director of the Department of Commerce and Consumer Affairs.

Your Committee has also amended the bill by:

- (1) Adding a purpose section to clarify the intent of the bill;
- (2) Deleting the paragraph on exclusions to "business opportunity" in the definitions section;
- (3) Adding a section on general provisions to regulate the sale of business opportunities;
- (4) Deleting the section on required registration which includes filing a copy of a disclosure statement. The section on disclosure statements was amended to include this stipulation;
- (5) Deleting the bond or guaranteed letter of credit requirement to establish a trust account for sellers;
- (6) Deleting the section on contracts and cancellation of contracts, and adding a new section on the rights and prohibitions governing the relationship between the seller and the purchaser;

- (7) Deleting the section on remedies for a person injured due to a violation of this chapter or by a breach of contract, and adding a section defining and specifying civil liability in sales of business opportunities;
- (8) Deleting the section on waiver of rights by a purchaser;
- (9) Deleting the section on the powers of the administrator, and adding two sections on the duties of the director and the administration of this chapter; and
- (10) Adding a section requiring fees to be paid when filing a disclosure statement.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 19, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 19, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 405 Consumer Protection and Commerce on S.B. No. 33

The purpose of this bill is to amend the registration qualifications of professional landscape architects.

Presently, a person registering as a landscape architect must have a minimum of three years of full-time lawful experience in landscape architecture, complete a landscape architectural curriculum and successfully complete an examination, or have a minimum of twelve years of full-time lawful experience in landscape architecture and successfully complete an examination.

This bill would allow a person who has completed a pre-landscape architecture curriculum, has five years of full-time lawful experience in landscape architecture, and successfully completed an examination to register as a landscape architect.

Your Committee has amended the bill by accepting the completion of an arts and science curriculum in lieu of a pre-landscape curriculum and deleting the proposed "qualifying written examination" requirement because this examination does not exist.

These amendments would fill the gap between the three and twelve-year experience requirement as well as the degree and non-degree requirement by allowing a person with five years of full-time lawful experience and a pre-landscape architecture or arts and science degree in a related field to be eligible for registration as a landscape architect.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

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

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 406 Consumer Protection and Commerce on S.B. No. 55

The purpose of this Act was to unify and update the law of profit corporations in the State and to bring it into conformity with the Model Business Corporation Act as published by the American Bar Foundation and the American Bar Association Section of Corporation, Banking and Business Law (ABA).

The ABA Model Act is the product of extensive efforts of learned legal, financial and corporate scholars over a period of thirty years. In the past, this Model Act has been a major influence in the revision of Hawaii's profit corporation laws.

Your Committee finds that the Act will: (1) facilitate the conduct of business in Hawaii; (2) update Hawaii's corporation laws; (3) provide the State with established court interpretations for its corporation laws; and 4) conform Hawaii's corporation laws with over twenty states who have adopted the substance of the ABA Model Corporation Act.

Your Committee has made extensive amendments to this Act based upon the recommendations made by the Department of Commerce and Consumer Affairs, the Department of Budget and Finance, and other interested parties. These amendments are necessary in order to bring S.B. No. 55 into substantial conformance with the language of the ABA Model Act, and for administrative convenience. The following amendments were made:

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
-2(m)	Definitions	Inclusion of take-over bid definitions as currently provided by Hawaii law.	Take-over bid provisions are retained in sections -150 to -162, to provide protection for the public and Hawaii corporations.
-3	Purposes	Delete exclusion for banking and insurance companies from incorporating provisions.	Question as to whether existing banking and insurance statute will allow for the creation of corporate entities.
-4(j)	General Powers.	Add directors to conform to Model Act.	Permit corporations to make loans to directors, in conformance with -47.
-26	Shareholders' preemptive rights.	Conform to current Hawaii law.	Hawaii law preserves common law preemptive rights.
-33	Voting of shares.	Fourth paragraph was reworded for style and clarity.	Conform to current Hawaii law.
-52	Books and records.	Conform to current Hawaii law.	Present statutes are simpler and easily understandable.
-56	Effect of issuance of articles of incorporation.	Conclusive evidence changed to prima facie evidence.	Conform to current Hawaii law.
-59(c); -73(b); -79(c); and -84(c)	Procedure to amend articles of incorporation; Approval by shareholders; Sale of assets other than in regular course of business; Voluntary dissolution by consent of shareholders.	Conform to current Hawaii law.	Preserve present statutes for corporations incorporated before the effective date of the Act which is July 1, 1986, except for corporations which voluntarily elect out of present Hawaii law and into new provisions of this Act pursuant to a vote in accordance with present Hawaii law.

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
-87(b)	Procedures after filing of statement of intent to dissolve.	Conform to current Hawaii law.	To provide for publication of a notice of voluntary dissolution of corporations.
-92(c)	Articles of dissolution.	Conform to current Hawaii law.	Implement the publication of notice of voluntary dissolution of corporations.
-104	Reprint with director of finance of amount due certain shareholders.	Conform to current Hawaii law.	Provide for disposition in accordance with the State Uniform Unclaimed Property Act.
-125(d)	Annual report of domestic and foreign corporations.	Conform to current Hawaii law.	Facilitate the service of process on directors and officers of a corporation.
-126	Filing of annual report of domestic and foreign corporations.	Conform to current Hawaii law.	Reflects the existing March 31 deadline for domestic corporations and the June 30 deadline for foreign corporations.
-128	Fees for filing documents and issuing certificates.	Conform to current Hawaii law.	Addition of special handling fees.
-136	Penalties imposed upon officers and directors.	"Violation" changed to "misdemeanor".	Increase penalty.
-140	Appeal from director.	Written notice of disapproval of documents extended from ten days to thirty days.	Administrative purposes.
-151	Registration of take-over bids; disclosure.	Inclusion of take-over bid definitions or currently provided by Hawaii law.	Provide protection for the public and Hawaii corporations.
Sec. 9 p. 199	Issuance of shares.	Current chapter 416 will not be repealed or amended except as provided for in this section.	Chapter 416 will apply only to non-profit corporations, while profit corporations will be governed by the first part of this Act.
Sec. 19 p. 208		Only chapter 417E relating to take-over bids is repealed.	Chapter 417 and 418 retained and will apply only to non-profit corporations.

<u>SECTION</u>	<u>HEADING</u>	<u>CHANGE</u>	<u>REASON</u>
Sec. 21 p. 208		Conform to current Hawaii laws with respect to non-profit corporations.	Chapters 417 and 418 and parts I through VII of chapter 416 applicable to non-profit corporations. General corporation laws applicable to profit corporations will be provided for in this Act.

It is your Committee's intent that inconsequential errors in the requirements for incorporation, will not be cause for rejection of the articles of incorporation or as a basis for disputing the legal existence of the corporation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 55, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 55, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, B. Kobayashi, Yamasaki, Henderson and Soares.

SCRep. No. 407 Consumer Protection and Commerce on S.B. No. 184

The purpose of this bill was to delete references to gender and indefinite modifiers and to correct differences between the designations of osteopathic physician and osteopathic physician and surgeon.

Your Committee adopted the recommendation of the Board of Osteopathic Examiners and amended the bill by deleting "D.O.S.", as an approved designation for a person who is an osteopathic physician and surgeon, from section 460-1, Hawaii Revised Statutes.

Presently, the State for licensing purposes uses the designation "D.O.S." for a person who is an osteopathic physician and surgeon, and "D.O." for a person who is an osteopathic physician. However, the official designation for a doctor of osteopathy is "D.O." and should be used when referring to the profession in general.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 184, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 184, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 408 Consumer Protection and Commerce on S.B. No. 435

The purpose of this bill was to eliminate the \$20,000 limit on the amount of credit life insurance which may be issued on the life of a member of a debtor group under a policy issued to a creditor.

Presently the amount is limited to the lesser of \$20,000 or the contract indebtedness. This bill would limit the amount solely by the total amount repayable under the contract. Your Committee finds that a creditor should be allowed to obtain insurance covering the full amount of its loan.

The payment by a debtor of the amount necessary to cover a credit life insurance policy on behalf of a creditor is often a condition to which the debtor must agree in order to obtain a loan. The creditor collects these moneys from its debtors and remits the appropriate amount to an insurer in payment for the credit life insurance protection.

Testimony from the Department of Commerce and Consumer Affairs indicated that if the good experience of a particular creditor warrants it an insurer may refund a portion of premiums paid for credit life insurance to the creditor. The testimony further indicated that these refunds are usually kept by the creditor rather than being refunded to the debtor.

Your Committee finds that any premium refunds received by a creditor should be returned to the debtor. Accordingly, the bill has been amended to require that any such refunds be returned.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 435, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 435, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 409 Consumer Protection and Commerce on S.B. No. 469

The purpose of this bill is to prohibit no-fault insurance premium increases due to accidents in which the insured was not at fault.

Existing statutory law does not expressly prohibit premium increases due to accidents not caused by the insured. Although the Insurance Division of the Department of Commerce and Consumer Affairs has interpreted existing law to prohibit such a practice, there is question as to whether the department's interpretation will withstand judicial scrutiny.

Your Committee finds that there is a need to clarify the no-fault law to specify that premiums shall not be increased due to accidents in which the insured was not at fault.

Your Committee heard testimony from the Insurance Division of the Department of Commerce and Consumer Affairs that they are in support of this measure which corresponds to their present interpretation of the law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 469 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, B. Kobayashi, Yamasaki, Henderson and Soares.

SCRep. 410 Consumer Protection and Commerce on S.B. No. 777

The purpose of this bill is to update Part II of Chapter 207, Hawaii Revised Statutes, by amending the definition of "foreign lender".

In the past three years, great changes have been effected in the lending industry through federal deregulation and the granting of expanded powers to lending institutions. First enacted in 1961, the definitions portion of Part II of Chapter 207 was last amended in 1970 and does not provide for the changes which have occurred in the lending industry and the character of the institutions which participate in the national secondary, or resale, market with respect to mortgage loans. This has the effect of limiting those companies which can qualify for foreign lender status under Hawaii law. Hawaii is a capital scarce State and limitations on participation in Hawaii's mortgage market will be removed by these changes, thereby facilitating a flow of capital into the State.

Specific changes in the definition of "foreign lender" are as follows:

1. The enumeration of three specific institutions in clause (A) is deleted and a single reference to a section of the Depository Institutions Deregulation and Monetary Control Act of 1980 is substituted. That section enumerates insured banks, mutual savings banks, savings banks, credit unions, members of the Federal Home Loan Bank and insured institutions under the National Housing Act. All the institutions referred to are regulated under federal statutes and their deposits are insured. The change broadens the types of institutions which can qualify for foreign lender status while limiting that status to institutions subject to federal regulatory authority.
2. The substance of clause (C) is relocated to clause (D) and a new classification of lender, those which are approved for participation in mortgage insurance programs under the National Housing Act, is added. There are a number of lenders which do not come within any existing classification of foreign lender but are authorized to participate in mortgage insurance programs under the

National Housing Act. These lenders are all regulated by the Secretary of Housing and Urban Development and must meet specified standards of operation to continue participation in the mortgage insurance programs. As with the change to clause (A), the lenders eligible for foreign lender status by virtue of this change are subject to federal regulatory authority.

3. The substance of clause (C) is relocated to clause (D) to broaden the classification of lenders which may qualify to include those whose stock is owned by a lender approved by the Secretary of Housing and Urban Development.
4. Clause (E) is a new provision necessitated by the changes brought about by the Depository Institutions Deregulation and Monetary Control Act of 1980 and the Garn-St. Germain Depository Institutions Act of 1982. Both of those acts empowered federally regulated and insured institutions to engage in various activities through affiliated companies. Those affiliated companies may engage in lending activities and are afforded foreign lender status in view of the fact that they are federally regulated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 777 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Yamasaki, Henderson and Soares.

SCRep. 411 Consumer Protection and Commerce on S.B. No. 798

The purpose of this bill is to establish uniform and fair standards for determining the conditions under which purely voluntary, optional coverages offered under the no-fault law may be terminated or adjusted by insurers.

Presently, an insurer is not allowed to cancel or adjust optional insurance coverage to reflect a change in the quality of risk the insurer takes, and insurers do not have the right to determine to whom they would offer purely optional coverage.

The 1982 State Legislature, by adopting SCR 60, S.D. 1, called for a study group to review the concerns of the insurance industry regarding optional coverages under the no-fault law. The study group included representatives from the Hawaii Bar Association, the Hawaii Independent Insurance Agent's Association, the Insurance Division, and the Dean of the University of Hawaii School of Law. The proposals offered in this bill are an outcome of the study group's efforts. This bill deals only with those optional coverages, voluntarily offered by insurers for competitive reasons, which are beyond or in excess of optional coverages which must be made available to insureds pursuant to Section 294-11, Hawaii Revised Statutes, and the administrative rules adopted by the Insurance Division. Since current rules require insurers to offer all comers \$100,000 of no-fault benefits and \$100,000 of bodily injury liability, the proposed bill will only apply to coverages which exceed these limits.

This bill will permit an insurer to refuse to renew and thus to reduce coverage of an insured down to, but not below, the levels of options required by law to be made available to insureds. The insurer will be permitted to cancel or to reduce coverage to the level of the mandatory options only at the time of renewal, not during the term of coverage.

The proposed bill provides uniform and objective criteria for determining the circumstances under which an insurer may refuse to renew coverages in excess of those which must be offered. These are the high-risk criteria established by the Insurance Division for the joint underwriting plan pursuant to section 294-22(b)(1)(A) and (B), Hawaii Revised Statutes.

The study group also addressed the concern that the very broad provisions of Section 294-9(c), might preclude an insurer from cancelling or rescinding coverage in excess of that required to be offered, even in cases where the higher optional coverage was obtained as a result of fraud or misrepresentation of a material fact by the insured. Your Committee agrees with the study group's recommendations that clarifying language be included to deal with the special problem of rescissions for fraud or misrepresentation. That clarifying language is included in this bill. Your Committee feels that it would be inequitable to require an insurer to continue higher optional coverage if it were obtained as a result of fraudulent misrepresentation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 798 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 412 Consumer Protection and Commerce on S.B. No. 950

The purpose of this bill was to increase the maximum amount a state-chartered savings and loan association can invest in a service corporation from one percent to ten percent of the association's total assets.

Federal regulations presently permit a federal savings and loan association to invest not more than three percent of its total assets in service corporations. A national bank is presently permitted to invest not more than five percent of its total assets in bank service corporations with the restriction that it may not invest more than ten percent of its paid-in and unimpaired capital and surplus in any one bank service corporation.

Your Committee heard testimony from several savings and loan associations stating that increasing the amount a state chartered savings and loan association may invest in a service corporation will enable savings and loan associations to engage in a wider range of activity and diversify investments. This bill will allow them to offer a broader range of service to the public and maintain a competitive position in the financial services market.

Your Committee has accepted the recommendation of the Department of Commerce and Consumer Affairs to amend the bill to decrease the maximum amount a savings and loan association may invest in a service corporation from ten percent to six percent. The Department expressed concern that the ten percent maximum could result in adverse effects such as undue concentration of resources, conflicts of interest or unsound or unsafe practices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 950, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 950, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 413 Consumer Protection and Commerce on S.B. No. 1001

The purpose of this bill is to delete the provision that the \$15,000 initiation fee for membership in the Thrift Guaranty Corporation of Hawaii be applied to the credit of any assessment levied by the Corporation.

Currently each applicant of the Thrift Guaranty Corporation of Hawaii is required to pay the corporation a fee of \$15,000 which may be applied as a credit toward any assessment levied by the guaranty corporation.

This bill amends the statute by repealing the provision which provides that the \$15,000 initiation fee be applied as a credit to any assessment levied by the guaranty corporation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1001 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 414 Consumer Protection and Commerce on S.B. No. 1295

The purpose of this bill was to permit a service corporation regulated by the State of Hawaii to engage in any activity permitted a federally chartered service corporation and such other activities as the bank examiner may approve.

Service corporations are business entities which are owned by savings and loans associations. They provide savings and loan associations with a means through

which they may engage in a wider range of activity with broader investment authority. Through a service corporation, a savings and loan association is able to offer a greater diversity of services to meet the needs of the public.

Your Committee received favorable testimony from various organizations including International Savings and Loan Association, American Savings and the Department of Commerce and Consumer Affairs.

Your Committee amended the bill by amending Section 407-95(b) to provide that other approved service corporations of state chartered associations will also have the same powers as a federal savings and loan association service corporation.

Your Committee has further amended the bill by making clarifying language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1295, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1295, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 415 Consumer Protection and Commerce on S.B. No. 1339

The purpose of this bill is to require the consent of certain insured individuals in order to obtain life or insurance disability contracts.

Currently, a spouse or parent may effectuate a life or disability insurance contract upon the other spouse or minor child without their consent.

This bill deletes statutory provisions which allow a person to obtain life or disability contracts for one's spouse or child without their consent. The bill is designed to prevent life insurance policies from being taken out where there exists the moral hazard that the person receiving benefits under the contract would benefit more from the insured's death than from their continued survival.

Your Committee notes that this measure does not in any way eliminate the ability of spouses or any other persons with an insurable interest in the individual being insured from obtaining a life or disability insurance contract with their consent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1339, 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 Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 416 Consumer Protection and Commerce on S.B. No. 516

The purpose of this bill is to ensure that the legal staff of the Department of Commerce and Consumer Affairs has the authority to fully and effectively discharge their duties.

Act 60, Session Laws of Hawaii 1982, created a legal staff for the Department of Commerce and Consumer Affairs (DCCA) to prosecute cases involving consumer complaints relating to the activities of the various boards and commissions housed within the Department. These complaints often involve unlicensed persons engaged in activities for which a license is required from a board or commission.

Act 204, Session Laws of Hawaii 1982, gave the DCCA concurrent jurisdiction with the Office of Consumer Protection to take legal action against persons engaged in unlicensed activities. However, under present law, the DCCA attorneys are not authorized to utilize the full panoply of statutory provisions available to the Office of Consumer Protection to curtail unlicensed activities and obtain relief for consumers.

This bill would grant authority to DCCA attorneys to utilize the full range of statutory provisions available to the Office of Consumer Protection. Specifically, this bill would authorize DCAA attorneys to enter into assurances of voluntary compliance with alleged violators, obtain restitution for consumers in court judgments, enforce the civil provisions of Section 480-2, Hawaii Revised Statutes

(relating to unfair and deceptive business practices), and enjoin violations of that section, collect civil penalties for violations of Section 480-2, and enter into consent judgments with violators of Section 480-2.

Your Committee finds that the provisions of this bill would enhance the ability of the Department of Commerce and Consumer Affairs to protect consumers.

Your Committee has amended the bill by making a nonsubstantive change to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 516, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, B. Kobayashi, Henderson and Soares.

SCRep. 417 Ecology, Environment and Recreation on S.B. No. 142

The purpose of this bill is to provide the Board of Land and Natural Resources with the power to prohibit entry upon public lands in order to preserve native aquatic life, plants, wildlife, and the environment.

Presently the Board of Land and Natural Resources is not specifically empowered to prohibit entry upon public lands.

Your Committee finds that the most effective way to protect and preserve our native aquatic life, plants and wildlife is to prohibit entry into public lands. Prohibiting entry to an area for a period of time will also enable preservation of an environment which is threatened by heavy or harmful use. This bill will grant the board of Land Natural Resources power to prohibit entry upon public lands.

Your Committee has amended the bill to require the Board to designate by rules, the public land areas that would be subject to regulation. The requirements of Section 91-3, Hawaii Revised Statutes, would assure public notice and participation and Section 91-3(b) would also permit the agency to adopt rules which would be effective for a period of 120 days without prior notice or hearing in emergency situations.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 142, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 142, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 418 Ecology, Environment and Recreation on S.B. No. 760

The purpose of this bill is to permit the issuance of injunctions against agencies for violations of the coastal zone management law.

Presently the law provides that any person may be enjoined from violating the coastal zone management law. However, the definition of person does not include agencies.

The Department of Planning and Economic Development spokesman testified that this bill is a housekeeping measure which would clarify that injunctions may be issued against an agency for violations of the coastal zone law.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 760, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 760, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 419 Ecology, Environment and Recreation on S.B. No. 662

The purpose of this bill is to permit the mooring of commercial vessels in state small boat harbors on the neighbor islands.

Present language of Section 266-21, Hawaii Revised Statutes, excludes the mooring of commercial vessels in small boat harbors except in cases where there is no commercial harbor located within a distance of three statute miles.

This bill will allow commercial vessels to moor in small boat harbors on the neighbor islands without regard to the proximity of commercial harbors. However, the present restriction on commercial mooring in small boat harbors is retained for the island of Oahu.

The Department of Transportation spokesman testified that recreational boating activities will not be inconvenienced by the mixed use of our small boat harbors. Your Committee finds that this bill permits a more efficient use of boating facilities and that additional revenues will be realized through the assessment of commercial fees.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 662 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 420 Ecology, Environment and Recreation on S.B. No. 1351

The purpose of this bill is to provide for historic preservation.

Presently the historic property law prevents the department from executing leases for activities relating to historic property. This bill provides the statutory authority that will permit the department to lease historic property.

Your Committee received testimony from the Department of Land and Natural Resources, Friends of Iolani Palace, and Historic Hawaii Foundation in support of this measure. Your Committee finds that this amendment will allow the State to better fulfill the stewardship responsibilities in preserving historic resources. This will ensure flexibility and will encourage private investors to restore and maintain historic properties.

Your Committee urges the department to encourage public participation prior to formalizing any lease for historic property. Public notice and participation is especially needed when commercial activities are proposed for historic property.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1351, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1351, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 421 Ecology, Environment and Recreation on S.B. No. 913

The purpose of this bill is to enable the Stadium Authority to dispose of unclaimed lost and found property after 45 days.

Presently, lost and found property must be stored for seven years after which time it is considered abandoned property. Your Committee finds that claims for lost items are usually made by owners within a couple of days. Seven years accumulation of lost articles takes too much needed space unnecessarily.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the

intent and purpose of S.B. No. 913, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 913, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 422 Agriculture on S.B. No. 953

The purpose of this bill is to amend Section 26-16, Hawaii Revised Statutes, to specify that the majority of the members of the Board of Agriculture shall be from the agricultural community or the agricultural support sector.

Presently, members of the Board of Agriculture who are from agricultural industries may be in conflict of interest if they discuss matters affecting those industries during Board meetings. A 1978 revision of Section 84-14, Hawaii Revised Statutes, provided that members of boards or commissions mandated by statute to have particular qualifications would not be prohibited from taking official action on any matter as long as it did not directly and specifically affect a business or undertaking in which the member has a substantial financial interest and the substantial financial interest is related to the member's particular qualification.

The State Ethics Commission has informed the Board of Agriculture that because the only statutory qualification required of Board of Agricultural members is geographical, the provisions of the 1978 amendment of Section 84-14 would not apply. Thus, members from agricultural industries would be in conflict if they were to even discuss matters affecting those industries at Board meetings.

This bill amends Section 26-16 to mandate that a majority of the members of the Board of Agriculture be from the agricultural community or agricultural support sector. The intent of the amendment is to bring such members within the purview of Section 84-14. Your Committee feels that the public deserves to have the full benefit of the technical expertise of members of the agricultural community and agricultural support sector during deliberations of the Board of Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 953 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 423 Human Resources on S.B. No. 66

The purpose of this bill is to amend Chapter 89, relating to Collective Bargaining, by prescribing the conditions which will govern in an election among public employees for the purpose of selecting an employee organization to represent them in the collective bargaining process.

Your Committee heard testimonies which explained that the proposed amendment will require the Hawaii Public Employment Relations Board to verify the names of the employees, their signatures and the dates of signature prior to the conduct of an election to select an employee organization for collective bargaining purposes. Further, the Board shall report the results of its verification to both the employer and the employee organization. In the fulfillment of these prerequisite conditions, the occurrence of errors will be reduced satisfactorily.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 66 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 424 Human Resources on S.B. No. 1290

The purpose of this bill is to clarify and strengthen the State's authority to limit Medicaid reimbursements for health care services and supplies and to authorize a demonstration project to substantiate cost savings from enrollment in health maintenance organizations.

Your Committee finds that there has been no Medicare reimbursement limit for health care services and supplies since the Omnibus Reconciliation Act of 1981. The provisions of this bill would strengthen and clarify the authority of the State to

administer the federal limitations on reimbursement, and thereby provide for more cost-effective reimbursement procedures in the administration of the State's Medical assistance program.

Your Committee realizes that participation in health maintenance organizations can significantly reduce medical care costs. Currently, there is no incentive to participate in health maintenance organizations programs under the State's medical assistance program. Your Committee finds that the provisions of this bill establish a demonstration project which would encourage participation in health maintenance organizations and validate assertions of lower health costs under those programs.

Your Committee feels that the demonstration project should not limit participation to health maintenance organizations as defined by the federal government, such as Kaiser Foundation Health Plan, but should allow participation in prepaid programs of other providers. Your Committee has therefore amended the definition of "health maintenance organizations" under subsection (e) to read "...entites designated as such by the Department of Health and Human Services or other prepaid health plans."

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1290, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 425 Government Operations and County Relations on S.B. No. 372

The purpose of this bill is to allow "standard bar" to provide live or recorded music and facilities for dancing on a temporary basis.

Presently, a "standard bar" is prohibited from providing "cabaret" type services and entertainment. Although many standard bars have considered expanding their businesses to provide cabaret services and entertainment, they have not done so because of the expense and inconvenience of applying for a cabaret license.

This bill allows standard bar establishments to provide cabaret type services on a trial basis to determine the feasibility of providing these services on a permanent basis. The bill stipulates that the temporary license shall be issued on a one time basis, shall apply to establishments located in commercial districts, and shall not exceed ninety days.

Your Committee has amended the bill by:

- (1) Amending the purpose clause to clarify the intent of the bill;
- (2) Requiring standard bar establishments to seek the prior approval of the liquor commission before utilizing the provisions of this bill; and
- (3) Making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 372, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 372, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 426 Human Resources on S.B. No. 664

The purpose of this bill is to expand one qualification for the transportation assistance program by requiring eligibility for or receipt of "public assistance", instead of "financial assistance".

Your Committee finds that there is a need to modify the transportation assistance program to make it viable. By Act 276, Session Laws of Hawaii 1980, the Legislature enacted legislation to assist qualified persons to return to the person's homeland. A qualified person was defined as an alien or naturalized citizen who is a resident of Hawaii, over 60 years of age, and who is eligible to receive or receives financial assistance.

Ever since its enactment, the transportation assistance program has not been utilized by the persons for whom it was intended--the retired plantation workers who are interested in returning permanently to their homelands. This bill attempts to make the transportation assistance program more viable by designing it to meet the needs of the individuals for which it is intended.

Your Committee further finds that there is a need to assist aliens and naturalized citizens who are residents of this State, and who had originally come to this State to work in the sugar and pineapple plantations, many of which are being closed. The Legislature finds that there is a need to provide transportation assistance to these qualified individuals in order that they may permanently relocate in their homelands.

Your Committee has amended Section 346-142 by adding a new subparagraph D to read, "Is a person who had originally come to Hawaii to work in the sugar and pineapple plantations; and ".

Your Committee has further amended this bill by repealing the word financial on page 2, on line 12, to be replaced by the word public.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 664, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 664, S.D. 1, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 427 Human Resources on S.B. No. 977

The purpose of this bill as amended herein, is to re-emphasize two major areas of concern relating to social services. These concerns are expressed in the creation of a Hawaii security net and an amended definition of the term medical care.

Your Committee finds that there is a need to set forth clearly in the Hawaii Law, a Hawaii security net for social services programs. It is important that this security net be established and that periodic reports to the Legislature be made by the department on the status of this matter.

Directly related is the new heralded policy of the Federal government to severely and abruptly reduce its grant of Federal funds for Human Services. Consequently each state will have the greatly increased burden of caring for their people who are in need of the basic necessities of life.

The second concern of this bill deals with the definition of the term medical care. The current statute identifies specific services in defining the term "medical care". This bill proposes to amend the definition to permit the Department some selective discretion in the scope and content of services consistent with acceptable medical practice and funding availability due to the skyrocketing costs of medical care.

Your Committee further finds that the department may provide medical care to general assistance recipients of a scope and content different than the scope and content of medical care provided to other medically and categorically needy persons.

Your Committee has amended Section 346-1 by adding a new definition to be appropriately inserted and to read: "Hawaii security net" means those public and private assistance and social services programs designed to provide the basic necessities of life: food, clothing, shelter, and medical care."

Your Committee amended Section 346-1 by amending the definition of "medical care" to read: those health care services to which the department elects to include in the medical assistance program." This amended definition would be in effect for one year starting from July 1, 1983 through June 30, 1984.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 977, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 977, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 428 Housing and Urban Development on S.B. No. 167

The purpose of this bill is to amend section 359L-6, Hawaii Revised Statutes, by deleting the requirement of compensation for the members of the Factory-Built Advisory Board for each day spent in attending upon the duties of the Board and to make other technical changes to certain sections in chapter 359L.

Your Committee has amended the purpose of this bill to incorporate the provisions of a related bill that repeals section 359L-6, Hawaii Revised Statutes, which establishes the Factory-Built Housing Advisory Board, and to make other technical changes to chapter 359L.

The Factory-Built Housing Advisory Board provided recommendations when the rules governing factory-built housing were first being adopted. The Department of Commerce and Consumer Affairs (DCCA) testified that the Department has found the rules to be comprehensive and adequate and has found no need to consult with the Advisory Board since adopting the rules. Further, program activity has been minimal with a total of five applications received in the past two years. DCCA has handled these applications by contracting with an engineer to review plans on a per diem basis, the expense of which is borne by the applicant, and by referring the building plans to the county Building Department before granting project approval.

DCCA has stated that any future need to revise or update factory-built housing laws can best be accomplished by direct consultation of the Department with architectural and engineering associations, building construction trades, and contracting and manufacturing industries.

Your Committee has made other technical, nonsubstantive amendments to the bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 167, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 167, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Ajifu.

SCRep. 429 (Joint) Consumer Protection and Commerce and Housing and Urban Development on S.B. No. 1003

Your Committees find that the intent of the bill is to allow the advertising and conditional sale of lots in a subdivision upon receipt of preliminary approval of the subdivision from the county.

Present state law requires that subdivisions have final approval before lots can be advertised or sold.

To obtain final approval from the county, various conditions must be met. For example, in the City and County of Honolulu, detailed working drawings of the subdivision must be prepared and either park dedication fees must be paid or bonds posted. The improvements must be completed and the City and County of Honolulu must either grant final acceptance of the improvements (all roads and easements dedicated) or bonds must be posted with the City.

Since most subdivision projects are financed through construction loans, developers post bonds rather than complete improvements by cash.

Before the construction bonds are approved by the developer's bonding company, the bonding company requires that the construction lender issue a set-aside letter. The set-aside letter guarantees the bonding company that funds will be available to complete the subdivision if the developer defaults in any manner. The construction lender, however, will not issue the bonds needed by the developer to receive final approval of the subdivision from the City and County of Honolulu until the lender is assured that the project is viable. The lender usually requires developers to pre-sell enough lots to cover the construction loan to assure that the project is viable before the lender issues a set-aside letter. The developer, however, cannot sell lots legally until he or she receives final approval of the subdivision from the City. This is a catch-22.

This bill amends the state law to allow sale of lots upon preliminary approval of the subdivision if the purchaser is allowed to cancel the transaction when any material difference exists between the lot or terms of the purchase between the

preliminary and final approvals. This procedure is similar to condominium law procedures.

The bill also makes various housekeeping amendments to the law.

The bill also raises registration fees and inspection expenses to realistic levels and permits the Director of Commerce and Consumer Affairs to adopt new fees from time to time.

Your Committees have made substantial amendments to the bill including the following:

1. Added a purpose clause;
2. Deleted part (4) from section 484-3(b);
3. Requires that applications for registration of subdivided lands contain an executed copy of the escrow agreement between the subdivider and an escrow company which agreement is in compliance with the requirements established by rules; and any other information which may affect a potential purchaser's or purchaser's interest in the project;
4. Requires that public offering statements now include information to assure full and fair disclosure to prospective purchasers instead of information required by the director;
5. Provides purchasers with a 7-day period after entering a contract to purchase land to rescind the contract at no penalty to the purchaser;
6. Permits the Department of Commerce and Consumer Affairs to hire consultants to do detailed inspection reports;
7. Requires, in the case of land which has yet to receive final approval, that purchasers' moneys be held in escrow and not be disbursed until 31 days after final subdivision approval is granted, except for rescission of the contract, or agreement, of sale.

Your Committees on Consumer Protection and Commerce and Housing and Urban Development are in accord with the intent and purpose of S.B. No. 1003, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1003, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Holt, Uwaine, Yamasaki, Ajifu, Henderson and Soares.

SCRep. 430 Government Operations and County Relations on S.B. No. 688

The purpose of this bill is to enable county liquor commissions to exercise their jurisdiction over the manufacture, importation and sale of liquors by investigation, enforcement, and education.

Currently, Section 281-17, Hawaii Revised Statutes, authorizes the county liquor commissions to control, supervise, and regulate the manufacture, importation, and sale of liquors, but makes no mention of the methods they may use to provide this control, supervision and regulation.

This bill will amend Section 281-17 to provide the county liquor commissions with authority to use the methods of investigation, enforcement, and education in the control, supervision, and regulation of the liquor industry.

Your Committee is well aware that drinking and driving continues to be one of our most serious safety and public health problems. Most alcohol education programs now offered by public and private agencies are aimed at the users and potential users of liquor. None of the existing programs are aimed at the liquor licensees and their employees, such as the retail store operator, restaurant manager, bartender, waitress, hostess, and others who actually do the selling and serving to the public. It is your Committee's intent to expand the function of the county liquor commissions so that they may enlist the liquor industry to participate in education programs for licensees as a complement to existing alcohol education programs offered by other public and private agencies. This bill will enable the county liquor commissions to educate the liquor licensees and their employees about the problems associated with

alcohol misuse. In turn, these individuals will be able to reach the public to reduce these problems by controlling liquor at the point of sale and consumption.

Your Committee amended the bill by making non-substantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 688, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 688, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 431 Government Operations and County Relations on S.B. No. 678

The purpose of this bill is to allow the City to exchange lands owned by the City that are currently in school or park use with lands to be used for park or housing purposes.

Under Act 203, Session Laws of Hawaii, 1967, the State took control of school lands owned by the City. This Act transferred the public school functions from the City to the State, however, the real property and improvements involved therein were not conveyed to the State. As a result, the City continues to pay the outstanding principal and interest on the general obligation bonds that were issued for the improvements. Your Committee finds that this bill will allow the City to transfer these lands to the State in exchange for lands owned by the State.

Your Committee amended the bill to conform to recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 678, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 678, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 432 Government Operations and County Relations on S.B. No. 1004

The purpose of this bill is to allow holders of cabaret licenses to provide either an orchestra of not less than three members, or professional entertainment for the patrons.

Currently, the law requires that a cabaret license holder must have both professional entertainment and a band of not less than three members. This discriminates against professional entertainers who do not have a three piece band as part of their act, and places an unfair burden on cabaret establishments.

Your Committee finds that the bill will eliminate the present discrimination against professional entertainers, and will allow cabaret establishments the flexibility to choose other forms of entertainment.

Your Committee has amended the bill to set forth the entire section of the law being amended in order to conform to recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1004, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1004, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 433 Government Operations and County Relations on S.B. No. 806

The purpose of this bill is to provide for prompt payment to subcontractors by contractors for work performed under public contracts.

Under current laws relating to public contracts, i.e., contracts between the State or a county government and the private sector, there is no provision requiring prompt and timely payments by contractors to their subcontractors. Testimony presented to your Committee indicated that at times, payment by the general contractor to the subcontractor is not made within a reasonable interval after the

general contractor receives payment under the public contract. This results in economic hardship to subcontractors.

This bill would require public contract general contractors to pay their subcontractors within seven days after receiving moneys under the public contract unless the subcontractors work was untimely or unsatisfactory.

Your Committee finds that ten days is a more reasonable length of time to allow the general contractor to make payment and has amended the bill accordingly. Your Committee has further amended the bill by excluding retainage from the general contractor's payment obligation to the subcontractor until the contractor receives his final payment and makes full payment to the subcontractor. The bill has also been amended by making language changes which do not affect its intent.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 806, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 806, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 434 Government Operations and County Relations on S.B. No. 663

The purpose of this bill is to eliminate the ceiling of \$40,000 in the use of a certificate of deposit, cashier's check or certified check for concession bid deposits.

Many business firms have difficulty acquiring a surety bond to meet concession bid deposit requirements and must either use cash or not bid at all. For security reasons, the use of cash for large amounts is impractical and unsafe.

This bill makes it easier for firms to bid for concessions.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 663 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 435 Government Operations and County Relations on S.B. No. 546

The purpose of this bill is to authorize the chief of police of each county to assess and collect a firearms permit fee from persons acquiring a firearm.

Presently, the counties do not assess a fee for processing applications for permits to acquire firearms. Act 239, Session Laws of Hawaii 1981, requires the fingerprinting of permit applicants for the purpose of making positive identification in criminal history checks. The police department of each county establishes positive identification by utilizing the criminal history records of the Federal Bureau of Investigation (FBI). In 1982 the FBI initiated a new procedure to assess \$12 for providing this service which is paid for by the respective police departments. Your Committee finds that this cost should be paid by applicants rather than all taxpayers.

In order to ensure that the fee charged does not exceed the cost of processing the application, your Committee has amended the bill to specify that the fee shall equal the cost of the FBI fingerprint check.

The bill has also been amended by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 546, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 546, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 436 Government Operations and County Relations on S.B. No. 1283

The purpose of this bill is to establish a standardized statewide parking system for the issuance and enforcement of parking permits for disabled persons.

Presently, there are inconsistencies in the administration and enforcement of the parking permits which allow handicapped drivers to park in specifically designated stalls. Since parking areas come under the jurisdiction of several agencies, a disabled person must apply to several agencies, with varying standards, to obtain the required permits.

Your Committee agrees that the provisions of this bill would address this problem by standardizing the format of the parking permits statewide. After hearing testimonies from various agencies and departments, your Committee has amended this bill based upon the recommendations of the Commission on the Handicapped, City and County of Honolulu Departments, and the Attorney General's Office.

In order to achieve statewide consistency, minimize cost and labor, and simplify both public and private enforcement, your Committee has amended the bill to delete the provisions for special license plates, existing permit holders, temporary disabilities, and identification cards. The issuance of special license plates would merely duplicate the function of a permanent distinguishing place card.

Your Committee finds it necessary to define "Certificate of Disability", to redefine "Disabled Person", and "Director".

Your Committee also made numerous minor amendments to the bill relating to renewal of permits, allowing the counties to adopt rules, parking privileges, and enforcement penalties. These amendments were for purposes of flexibility and clarity.

Your Committee has amended section 5, such that this act will take effect on January 1, 1984 rather than upon approval. This will allow the counties to procure the necessary identification place cards.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1283, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1283, S.D. 1, and be placed on the calendar Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 437 Government Operations and County Relations on S.B. No. 309

The purpose of this bill is to improve earthquake resistant building requirements for Hawaii.

Under present building codes, Kauai must adhere to seismic probability Zone 0, Oahu and Molokai to Zone 1, Maui and Kahoolawe to Zone 2 and the island of Hawaii to Zone 3 standards. All state buildings, however, are required to meet earthquake resistance standards for seismic probability Zone 3.

Your Committee finds that prudence will dictate that all buildings on Oahu, three stories or more in height should be subject to at least Zone 2 standards based on the latest data submitted by Dr. Augustine Furumoto, Professor of Geophysics, University of Hawaii at Manoa, and a co-author of "A Study of Past Earthquakes, Isoseismic Zones of Intensity, and Recommended Zones for Structural Design for Hawaii".

Hawaii is in an area of more frequent earthquake activity than had previously been estimated. Within a radius of less than one hundred miles, thirteen earthquakes with magnitudes larger than six on the Richter scale have occurred within five years, and three earthquakes with magnitudes larger than seven on the Richter scale have occurred within one hundred and ten years.

Historical records show that in 1871, an earthquake estimated at a magnitude of 7.2 on the Richter scale was recorded. Honolulu at that time was a relatively new town, and even though most of the city was newly constructed, many buildings were severely damaged, walls cracked, and chimneys destroyed by the earthquake.

Dr. Furumoto, commenting on a study by Mr. Robert Estill, presented evidence indicating a belt of earthquakes, extending thousands of miles and running through Molokai, called the Molokai Seismic Zone. He also pointed out the existence of a fault closer to Honolulu, which was recently detected by ocean bottom seismographs called the Diamond Head Fault because of its geographic location.

According to a recent Civil Defense study, an earthquake of sizable magnitude could occur along the Diamond Head Fault that could result in considerable destruction to the Honolulu Area. In addition, a study by Dr. Furumoto estimates that an earthquake with a magnitude of 6 on the Richter scale is destined for this Diamond Head Fault within the next one hundred years.

As a result of the data presented and your Committee's concern for the present and future safety of the citizens of this state, earthquake resistant building requirements for the island of Oahu should be increased as it is the most heavily populated and most heavily built island.

Testimony also indicated the importance of the enforcement of any building codes as they pertain to earthquake resistance requirements. It has been documented in many cases, where serious earthquakes have occurred, damage to buildings was caused by builders in the field not adhering to specific code requirements (i.e. cutting corners or not following the specific plans), thus making buildings less resistant to earthquake damage than they should have been.

In addition, several architects have stated that they voluntarily are designing their buildings to meet the Zone Two and Zone Three requirements even though Oahu is presently classified Zone One. It was stated that safety and resistance to earthquake damage can be significantly increased without substantially increasing costs to owners.

By increasing the requirements of all buildings or structures, three stories or more on Oahu, to meet Zone 2 requirements, it is intended to lessen the chances of serious damage to life and property due to a major earthquake predicted for the future by recognized experts.

Your Committee has amended the bill by lowering the probability zone requirement for buildings from three to two and by limiting the purview of this bill to buildings on the island of Oahu only.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 309, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 309, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie and George.

SCRep. 438 Ecology, Environment and Recreation on S.B. No. 656

The purpose of this bill is to consolidate, reorganize and clarify sections of the Hawaii Revised Statutes into new chapters relating to the Department of Land and Natural Resources.

This bill is an administrative measure to establish the program and organizational changes that have been made administratively within the Department of Land and Natural Resources.

Your Committee received testimony that the islands have suffered damage from well-intentioned introductions of foreign wildlife. Your Committee has amended the bill to require that every proposal for an animal introduction shall be reviewed by the Animal Species Advisory Commission.

Testimony was also received that it is inappropriate for Department of Land and Natural Resources employees to serve as ex-officio voting members of the Animal Species Advisory Commission. The Committee amended the bill to provide for three professionals of the department to serve as ex-officio non-voting members.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 656, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 656, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 439 Ecology, Environment and Recreation on S.B. No. 1285

The purpose of this bill is to transfer the responsibility of regulating private wastewater treatment works from the State Department of Health to the Counties.

Presently the Counties have the responsibility for determining land use zones and for approving development and building plans. The State reviews and approves wastewater treatment and disposal systems proposed for new developments.

This division of authority and responsibility has often resulted in duplication of development tasks and requirements and in the development of wastewater treatment and disposal systems in areas of high health and environmental risks.

The State of Hawaii and Counties have jointly developed a Water Quality Management Plan for the State pursuant to the Federal Water Pollution Control Act of 1972. The plan addresses the question of delegation of responsibility for regulation of private wastewater facilities and recommends that delegation occur to the maximum extent possible.

Your Committee has made the following amendments:

- 1) Limited the Counties responsibility to new projects because the Department of Health should maintain responsibility for those projects the department has approved.
- 2) Excluded private treatment works which treat agricultural or industrial wastes that are presently regulated by National Pollutant Discharge Elimination System (NPDES) permit.
- 3) Provided for the transfer to the Counties of the responsibility for cesspool and individual wastewater systems.
- 4) Provided that the City and County of Honolulu implement the provisions of this bill before July 1, 1984. The Counties of Maui, Kauai, and Hawaii shall establish rules before July 1, 1985.
- 5) Provided the Director of Health with the authority to authorize the Counties to adopt standards and requirements that are less stringent than those of the department in order to accommodate rural needs.
- 6) Provided that the transfer of regulatory powers shall only occur where an agreement exists between the State and County.

Your Committee concludes that the Counties should actively undertake the transfer of responsibility.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1285, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1285, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 440 (Majority) Education on S.B. No. 276

The purpose of this bill is to amend the compulsory school attendance age from eighteen to sixteen years.

Currently, Section 298-9, Hawaii Revised Statutes, requires children to attend school until they attain the age of eighteen years. Your Committee finds that children who do not want to attend school often cause disruptions at school which result in adverse effects on the education of all students. Lowering the age at which students may leave school will probably help to alleviate many of the problems currently faced by public schools.

However, your Committee is mindful of the obligation of the State to educate children to prepare them for productive and useful lives. This obligation is not to be shirked for convenience or expediency.

Upon consideration of the rights of all students to an education free from disruptive influences and the obligation of the State to educate its children, your

Committee has amended the bill to lower the compulsory school attendance age to seventeen years. Your Committee finds that the bill, as amended, strikes a reasonable balance between the competing interests discussed above.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 276, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 276, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Cayetano did not concur.

SCRep. 441 Education on S.B. No. 1046

The purpose of this bill is to prohibit the use of school priority funds for non-instructional positions.

Presently, the guidelines for using school priority funds dictate that the use of the funds shall be to augment instruction and other purposes which, at the school's discretion, will benefit students and improve the instructional programs beyond the level normally permissible through only the regular allotment. Funds are used to purchase supplies, textbooks, equipment and services.

This bill would prohibit the use of school priority funds to establish non-instructional positions, thereby insuring that the funds are used for a school's unique instructional needs.

Your Committee has amended the bill by deleting in its entirety the proposed amendment to Section 296-4, Hawaii Revised Statutes, which would prohibit the use of school priority funds for non-instructional positions. Your Committee has deleted this provision because the exclusion of non-instructional positions from the school priority fund may prevent the funds from being used for student activity coordinator positions.

The bill was further amended by deleting the phrase "and to the extent practicable, with" on page 1, lines 4 and 5. The effect of the amendment is to require school principals to consult with parents and students, as well as teachers, on the use of school priority funds.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1046, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1046, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 442 Education on S.B. No. 1047

The purpose of this bill is to require restitution by a pupil who commits an act of vandalism against any public school and to clarify the responsibilities of the school principals and the Department of Education in its review of cases of vandalism.

This bill redrafts section 298-27, Hawaii Revised Statutes, to require restitution to be paid by a pupil or the parents of a pupil responsible for an act of vandalism. The bill clarifies the role and responsibilities of the principal and the Department of Education in investigating acts of vandalism and also clarifies the responsibilities of the pupil responsible for restitution.

School vandalism is costly to Hawaii's taxpayers and partial figures indicate costs of almost \$1,000,000 per year for the last four years as a result of vandalism. Your Committee finds that the pupils responsible for vandalism, or their parents or guardians should pay for such costs, rather than taxpayers.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1047 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 443 Education on S.B. No. 1050

The purpose of this bill is to provide high school students with greater access to classes outside their district.

The Department of Education submitted testimony stating that present Department policy is to permit school district exemptions to allow a student to enroll in a specific class in another school if that class is not offered in that student's school district. This bill gives statutory authority for high school students to attend classes outside their school districts.

Your Committee notes that it is not the intent of this bill to allow city-wide indiscriminate registering of students at different schools without regard to practical considerations of conflicting class schedules and class size. Rather, it is the intent of this measure to maximize use of our limited educational resources, in terms of teachers, course offerings and student access, by making them available to as many students as possible.

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

Signed by all members of the Committee.

SCRep. 444 Education on S.B. No. 1057

The purpose of this bill is to provide that any person licensed as a private driver education instructor prior to the bill's effective date shall be automatically certified as having completed the driver education instructor course.

Presently, all private driver education instructors must be certified by the Department of Education and licensed by the county in which they work as instructors.

Your Committee finds that private driver education instructors should not be subject to the certification requirement of the Department of Education which is intended for instructors hired by the department and for department purposes.

Therefore, your Committee has amended the bill by amending Section 286-91, Hawaii Revised Statutes, rather than Section 299-2, by deleting the requirement that an applicant for a driver education instructor's license or driver training school operator's license be certified by the Department of Education.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1057, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1057, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 445 Education on S.B. No. 1270

The purpose of this bill is to reinstitute library fines.

Presently, a person who wilfully and knowingly detains any library materials for seven days after the mailing date of a written notification, is subject to a nominal charge set by the State Board of Education. If the person detains the materials for thirty days after the written notification is sent, the person is subject to a charge commensurate with the replacement value of the book or library materials.

This bill will require a nominal charge established by the Board of Education to be charged to a person who does not return library materials one day after the due date of the library materials.

The testimony of the Director of the Hawaii State Library System shows a substantial loss of potential revenues due to the lack of a fine system throughout the State public library system. The testimony of a librarian at McCully Library states that approximately thirty per cent of the annual acquisition budget is spent replacing unreturned items.

Your Committee finds that due to severe fiscal restraints and budget cutbacks throughout all State departments, a fine system must be implemented and penalties increased for non-returned items borrowed from the public libraries.

Your Committee has amended the bill by:

1. Deleting the phrase "wilfully and knowingly";
2. Designating "public" before libraries;
3. Excluding children aged twelve and under from the fine policy;
4. Revoking library privileges for children aged twelve and under if library materials are not returned within thirty days of written notification;
5. Adding a provision whereby parents of children aged twelve and under who do not return library materials within the designated time, are informed of the number of days within which they must return the materials or be charged the cost of the non-returned items;
6. Adding a processing fee to the cost of all replacement items; and
7. Making the failure to pay fines or returning library materials a petty misdemeanor.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1270, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1270, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 446 Education on S.B. No. 1372

The purpose of this bill is to make various amendments to the laws governing teachers and substitute teachers.

The bill amends Chapter 297, Hawaii Revised Statutes by:

- (1) Requiring all teachers hired by the Department of Education, except persons teaching in the Kupuna program, to have fulfilled at least four years of acceptable college education. Presently, teachers in "Class I" as designated under Section 297-31.1 and 297-33, Hawaii Revised Statutes, are not required to have completed four years of college education;
- (2) Allowing applicants for permanent full-time teaching positions as teachers to receive credit for experience as substitute teachers. Presently, the DOE does not recognize experience obtained as a substitute teacher when applying for a full-time teaching position;
- (3) Requiring substitute teachers to accept all teaching assignments on the island of the teacher's residence. Presently, substitute teachers request the school district that they want to teach in, and are not obligated to teach at any school outside of the district requested.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1372, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 447 (Majority) Transportation on S.B. No. 369

The purpose of this bill is to amend 1) section 286-201(4) to include state and county motor vehicles as part of the motor carrier safety law; 2) repeals section 286-208 to bring farm trucks used by farmers in compliance with the motor carrier safety inspection program; and 3) section 286-209 (c) and (d) to delete the price of fees paid for motor carrier vehicle safety inspection decal and safety inspection fees from the Hawaii Revised Statutes.

Currently under section 286-201(4) state and county motor carrier vehicles are exempt from the motor carrier safety law. Since the motoring public and government vehicles both use the public highways, government vehicles should not be exempt from the safety requirements that public vehicles are required to adhere to.

Farm trucks used by farmers are currently exempt from the motor carrier safety inspection program under section 286-208. These farm trucks may weigh well in excess of 10,000 pounds yet they are inspected only to the extent of regular passenger cars. Without adequate safety requirements for these vehicles, they pose a serious threat to public safety.

In accordance with section 286-209 (c) and (d), a set fee exists on safety inspection decals and safety inspection fees. The current fixed fee is not economically feasible for motor carrier inspection stations in that the inspection requires an inordinate length of time (30 to 60 minutes) to complete. These fixed rates do not realistically address the economic needs of both the state and inspection stations. Under S.B. No. 369, the director of transportation shall establish new fee rates for vehicle decals and maximum fee rates for inspections. Setting of these fee rates will be in accordance with the economy.

Your Committee received testimony from the department of transportation in support of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 369, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators George, Solomon and Soares did not concur.

SCRep. 448 Transportation on S.B. No. 418

The purpose of this bill is to amend section 261-25, Hawaii Revised Statutes, to change the name of the airport located in Kailua, Kona.

The present statute designates that this airport be known as Kona Airport. However, references made to this airport are addressed "Keahole Airport". This bill proposes to correct this oversight of complying with the statute by changing the name to Kona Airport. It also includes the words "island of Hawaii" to clarify that the location of this airport is on another island within the State of Hawaii.

Your Committee has amended this bill to add "at Keahole" to the name of the airport to clarify the location of the airport, which is at Keahole Point, Kona.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 418, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 418, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 449 Transportation on S.B. No. 741

The purpose of this bill is to amend section 249, Hawaii Revised Statutes, relating to vehicle weight tax, to allow Hawaii residents with out-of-state licensed vehicles the same tax exemption enjoyed by out-of-state residents who bring their out-of-state licensed vehicles into Hawaii, and provides realistic requirements for junked and stored vehicles under the new staggered registration system.

Presently, tax exemptions are allowed for out-of-state residents who bring their out-of-state licensed vehicles into Hawaii. This exemption permits a vehicle to operate for the expiration of the out-of-state license plates before being required to obtain Hawaii license plates. This bill will extend this exemption to Hawaii residents with out-of-state licensed vehicles.

Your Committee finds that under present statutes, a vehicle must be currently registered before the Director of Finance can accept the junking of the vehicle. The result of this requirement has caused more vehicles to be abandoned on public and private property with the owners of these vehicles claiming that these vehicles were sold to another party. Since most junked vehicles cannot pass a safety inspection, which is a requirement for current registration, vehicle owners are not willing to pay taxes for a vehicle which will be junked as soon as it becomes currently registered.

In addition, present statutes provide refunds equal to only the remaining full quarters of the current registration year in which a vehicle is stored and requires

the owner of a vehicle to surrender his current license plates before he can store his vehicle. There is no grace period for registration under the monthly staggered system as compared to the former annual registration system which allowed for the one quarter grace period from January 1st to March 31st of each year. The bill remedies the situation by providing for equitable treatment under the staggered system whereby the taxpayer would be required to pay back taxes and penalties only for the period during which the license plates could have been utilized if validated by an emblem.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 741, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 450 Transportation on S.B. No. 742

The purpose of this bill is to provide a more realistic and practical application of the derelict vehicle law and to insure that abandoned vehicles are sold at a more realistic price by motor vehicle repair businesses and towing companies.

Presently the current procedures to classify a vehicle as a derelict are cumbersome. In addition to the absence of major component parts which render the vehicle inoperable all means of identification must be lacking which makes efforts to locate or identify the last known registered or legal owner difficult. A time consuming record search and notification procedure must be undertaken before the vehicle can be disposed or sold as junk. As a result, the removal of an obviously derelict vehicle cannot be accomplished in a timely manner.

This bill provides new conditions for the classification of a derelict vehicle by: 1) requiring notification of the vehicle owner if the vehicle is currently registered and identifiable and 2) if a vehicle is not currently registered and identifiable, it can be deemed a derelict if it meets the physical conditions of a derelict vehicle and may be immediately towed away.

This bill will require a written independent appraisal by a licensed new or used car dealer of the value of an abandoned vehicle prior to the sale by a motor vehicle repair business or towing company. This will prevent the practice by motor vehicle repair shops and towing companies of accepting unregistered local or out-of-state vehicles, claiming them as being abandoned by the customers, and then obtaining legal title to the vehicle. These vehicles may then be sold back to the original party with a valid registration and title for a price which is normally below the value of the vehicle. The final sale price of the vehicle should be approximately the amount noted in the independent appraisal.

In order to insure that a vehicle with a recently expired registration is not disposed of as a derelict without the knowledge of a possible lienholder the time span for a record search on a vehicle includes two registration periods.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 742, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 742, S.D. 2.

Signed by all members of the Committee.

SCRep. 451 Transportation on S.B. No. 749

The purpose of this bill is to amend section 286-122, Hawaii Revised Statutes, to include offenses committed on federal property a condition for which the examiner of drivers may suspend or revoke the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state.

Under the present law, a driver's license may be suspended or revoked upon notice that a driver has been convicted of an offense in another state in which, if the offense were committed in this state, would be grounds for the suspension or revocation of the driver's license or privilege. However, it does not provide for such revocation by the State of Hawaii where the conviction was by the federal government after a proceeding before a United States Magistrate.

Your Committee received testimony from U.S. Attorney Daniel Bent supporting this measure which will assist the federal government in its effort to treat defendants in

such cases similarly by permitting the State of Hawaii to suspend or revoke a license based upon a federal conviction on federal property.

Your Committee concurs with the testimony received from the U.S. Attorney and the department of transportation that grounds for the suspension and revocation of a driver's license or privilege should be applicable whether the offense was committed within the jurisdiction of this state, another state, or on federal property.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 749 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 452 Transportation on S.B. No. 1247

The purpose of this bill is to clarify section 286-172, Hawaii Revised Statutes, which provides for public access to motor vehicle registration information, while at the same time establishing procedures governing this access.

Currently, section 286-172, Hawaii Revised Statutes, allows access to the information contained in the statewide traffic records system to those persons who request such information, who meet certain enumerated conditions, and who will not use names and addresses of individuals for commercial solicitation.

Your Committee has found that there is an existing problem arising from the interpretation of section 286-172(a)(2)(B) which states, "Such person is required or authorized by law to give written notice by mail to owners of vehicles." It has been interpreted that the foregoing language requires any authorized person requesting access to motor vehicle registration information to give prior written notice by mail to owners of vehicles that their names will be obtained from the statewide traffic records system.

Your Committee believes that this interpretation is contrary to the intent of section 286-172. The intent of section 286-172(a)(2)(B) was to permit additional access to motor vehicle registration information to any person required by law to give notice to an owner of a vehicle, as in the manner of sections 290-2 and 290-11, and who is deemed an appropriate person to whom disclosure can be made. For example, this includes towing companies which are required by law to give written notice by mail to owners of vehicles.

Your Committee has amended the bill by:

1. Amending section 286-172(a)(2)(B) which requires the Director of Transportation to furnish information contained in the statewide traffic records system to any person required or authorized by law to give written notice by mail to owners of vehicles, which clarifies the original intent of Act 194, Session Laws of Hawaii 1981.
2. Deleting the requirement that the Director shall provide the information contained in the statewide traffic records system only upon entering into a written agreement with any person who requests the entire file.
3. Deleting the requirement of filing with the Director a corporate surety bond in favor of the State in the penal sum of \$25,000.
4. Adding a provision that any person receiving information pursuant to sections 286-172 (a)(1), (a)(2), or (a)(3), as amended herein, shall hold harmless the State and any agency thereof from all claims for improper use or release of such information.

Your Committee has further amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee agrees that the provisions of this bill, as amended, allow reasonable access to information contained in the statewide traffic records system and simultaneously protect the privacy rights of individuals whose names appear in the records.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1247, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as S.B. No. 1247, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 453 Agriculture on S.B. No. 324

The purpose of this bill is to protect the bee industry by prohibiting the importation of live or dead bees, bee semen, or used beekeeping equipment.

This bill would protect the bee industry by amending Section 150A-6, Hawaii Revised Statutes, to prohibit the importation of live or dead bees, bee semen, and beekeeping equipment to prevent the introduction of honeybee mites (Varroa jacobsoni and Acarapis woodi) and to maintain the disease resistance of Hawaii's bees. These mites are known to occur only in South and Central America.

Under present Hawaii law a health certificate is required from the state of origin to import bees. Every state except Alaska and Hawaii has apiary laws and/or regulations which provide disease and parasite free certification based on inspections and standards of production to assure disease and parasite free bees. The U.S. Department of Agriculture prohibits the importation of honeybees and honeybee semen from all foreign countries except for limited importation with prior approval.

Your Committee agrees with the testimony presented by the Department of Agriculture that preventing the entry of honeybee mites is desirable but that in light of present State and federal laws regulating importation of honeybees and semen, a blanket prohibition on importation of bees, bee semen and used bee equipment is overly restrictive.

The Department of Agriculture further testified that regulating the importation of used bee equipment such as hives would be impractical and almost impossible since hives and other beekeeping supplies are not manifested as agricultural commodities but as general merchandise and would not be referred to the Department's inspectors. The Department suggested that an educational program to promote the necessity of disinfestation and sanitation treatment of used hives would be more effective.

Based on the testimony of the Department of Agriculture, your Committee has amended the bill to delete the proposed ban on importation of bee semen and used bee equipment. However, in order to provide a measure of protection for the bee industry, the prohibition on importation of live or dead bees has been retained.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 324, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 324, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 454 Agriculture on S.B. No. 383

The purpose of this bill is to provide the Department of Agriculture the authority to sample and test all animal feed, and to remove adulterated feed from distribution.

In recent months, potential health hazards have resulted from pesticide residues in feeds being passed upward through the food chain to consumer products. Presently, Chapter 144, Hawaii Revised Statutes, exempts the feeds involved and certain other feeds from testing for adulteration. This bill would amend Chapter 144 to allow the Department of Agriculture to sample and test all animal feed, other than that of domestic pets, for adulteration and to remove the adulterated feed from the food chain.

Your Committee has amended the bill by adding a provision for administrative penalties for all violations of Chapter 144 and rules adopted thereunder. The current provision for criminal penalties does not allow the Department to take action immediately once violations are discovered. This amendment will improve the Department's ability to enforce Chapter 144.

Your Committee has amended the bill to correct typographical errors and to make technical changes which have no substantive effect.

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

No. 383, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 383, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 455 Agriculture on S.B. No. 388

The purpose of this bill is to amend current statutes to reflect the transfer of the agricultural product promotion and market development functions from the Department of Planning and Economic Development to the Department of Agriculture.

Under current statutes, the Department of Agriculture is not specifically given responsibility for agricultural product promotion and market development. In the past these functions were performed by the Department of Planning and Economic Development. Responsibility for agricultural product promotion and market development was transferred to the Department of Agriculture on April 16, 1982 by Executive Order 82-2 issued by the Governor pursuant to Act 98, Session Laws of Hawaii 1981.

This bill will change the statutes to reflect the transfer of the functions to the Department of Agriculture.

Your Committee has amended the bill to make technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 388, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 456 Agriculture on S.B. No. 651

The purpose of this bill is to repeal Chapter 204, Hawaii Revised Statutes.

Chapter 204, Hawaii Revised Statutes, was enacted to provide authorization for the Department of Planning and Economic Development to hold State fairs to promote agricultural products of the State. Testimony on the bill submitted by the Department of Agriculture indicates that Chapter 204 was never used for its intended purpose.

Moreover, the Hawaii Farm Bureau Federation currently sponsors an annual State Farm Fair to promote agricultural products. The Federation has received State assistance for the fair in recent years.

In view of the foregoing, your Committee is in agreement that Chapter 204 serves no useful purpose and should be repealed.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 651 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 457 Culture and Arts on S.B. No. 194

The purpose of this bill is to enable the Hawaii Public Broadcasting Authority to make, amend, and repeal rules necessary for the conduct of its operations.

Your Committee heard testimony from the Hawaii Public Broadcasting Authority that during the conversion of the Authority's rules to the Ramseyer system, it was found that unlike other divisions of the Department of Commerce and Consumer Affairs, there were no specific provisions for rule making in the statute which establishes the Authority. This bill will allow the Authority to make its own rules and regulations in accordance with chapter 91.

Your Committee amended the bill to make nonsubstantive language changes to conform to recommended drafting style and to correct a typographical error.

Your Committee on Culture and Arts is in accord with the intent and purpose of S.B. No. 194, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 194, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 458 Judiciary on S.B. No. 956

The purposes of this bill are as follows:

1. To authorize suits for injury to or loss of property against the counties or State when such injury or loss is occasioned by a county or state employee's arbitrary action or delay;
2. To specify that the State Tort Liability Act is applicable to counties to a certain degree; and
3. To provide that in actions against the county, the respective corporation counsel, county attorney, or comparable county official shall represent the county.

Your Committee finds that the federal and state governments have statutorily permitted specified suits against themselves. This measure primarily codifies the existing practices with respect to actions against the counties.

Your Committee amended the bill by deleting the phrase "or which the employee is able to cause as a direct result of the employee's employment with the State or county". Your Committee finds the phrase superfluous and would create confusion as to the intent of the measure.

Your Committee deleted subsection (8) of §662-15, which appeared on line 23 of page 7 of the bill as received, since it is of the opinion that said subsection does not substantially enhance the measure, but may in fact create confusion as to the intent of the measure. In addition, your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 956, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 956, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 459 (Majority) Judiciary on S.B. No. 1161

The purpose of this bill is to make each subsequent violation, after an initial violation of a domestic abuse protective order, a class C felony.

Presently, the violation of a domestic abuse order is a misdemeanor. Your Committee finds that both the intentional disregard of a court order and the prevalence of domestic violence in our society necessitates a stronger stance on violations of domestic protective orders. Since an alarming number of murders stem from domestic disputes, your Committee finds that any assistance to domestic violence victims may help to prevent needless injuries and/or murders. This bill would serve as a deterrent to domestic violence.

Your Committee made nonsubstantive, technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1161, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1161, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.
Senator Cayetano did not concur.

SCRep. 460 Judiciary on S.B. No. 1239

The purpose of this bill is to allow the recovery of attorneys' fees from a party who asserts one or more frivolous claims or defenses. The measure also delineates six circumstances which give rise to a rebuttable presumption that the claim or

defense was frivolous.

Presently, the law requires that all claims or defenses of a party be frivolous before the court can impose the sanction of assessing attorneys' fees.

Your Committee is in agreement with the intent of the present statute and deleted the proposed amendments which would have required that only one or more claims or defenses need be frivolous to impose the sanction. The proposals contained in the bill as received would effectively preclude a party from asserting alternative claims or defenses. The practice of asserting alternative claims or defenses is an equalizer for the defendant, who may be unaware of a lawsuit until he is served. The defendant would then have 20 days to file his statement of his defenses. Therefore, the bill as received would put the defendant in the unenviable position of trying to "cover all bases" at the risk of being ordered to pay the plaintiff's attorneys' fees (even if the defendant prevails), or waiving valid defenses to the claim.

Your Committee is in partial agreement with the proposed guidelines to determine whether a claim or defense is frivolous. The bill was amended to provide that a rebuttable presumption of frivolousness arises only in the following circumstances:

1. a party intentionally misrepresented the holding of a judicial decision;
2. a party intentionally misrepresented the facts and circumstances of the case;
or
3. the claim or defense was asserted for the sole purpose of delay.

Your Committee made additional amendments which were nonsubstantive and technical in nature.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1239, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Cobb, Kuroda and Toguchi.

SCRep. 461 Judiciary on S.B. No. 747

The purpose of this bill is to 1) clarify Family Court's power to issue restraining orders to preserve the status of marital property, 2) to grant the court the power to issue such order without a hearing, 3) to clearly authorize the court to issue such orders against nonparties, and 4) to empower the court to appoint masters to make preliminary findings and report to the court.

Presently, the statutory language relating to the issuance of restraining orders is narrow. The bill broadens the language to encompass current court practice.

The bill also gives specific statutory authority for the appointment of masters. Although presently allowed by court rules, the bill also provides a procedure for the admission of the masters' report in court.

Your Committee amended the bill to provide that a restraining order can be granted ex parte, without notice of hearing to the other party rather than without a hearing, as the bill originally provided. This amendment was made because there is no authority in the present statutes or in the court rules for the court to issue restraining orders without a hearing to determine the legitimacy or urgency of the claims for the extraordinary relief.

Your Committee further amended the bill by deleting the section stating that the court can issue an order against a person who is not a party because it finds that it was unnecessary. The court already has that power.

Your Committee created a new section for the appointment of masters; the bill had included it with the restraining order section, which the Committee finds inappropriate.

Lastly, your Committee made technical, nonsubstantive changes to the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 747, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Cobb, Kuroda and Toguchi.

SCRep. 462 (Majority) Judiciary on S.B. No. 313

The purpose of this bill is to require all candidates to comply with the campaign spending limits, to allow all candidates to apply for public campaign fund, and to reduce the number of reports necessary to be filed by the candidates.

To prevent the political process from becoming the exclusive domain of the rich, every candidate should be subject to the same campaign spending limit, thereby enabling candidates to compete more equitably for office. Many people in our community have the impression that to be elected, candidates must build a huge campaign fund. The result is that many candidates, who are otherwise qualified, decide not to run because they do not have the financial resources to compete with heavily funded opponents. The public ultimately bears the loss through inadequate representation of their interest in favor of special interests who are able to finance and further their own causes. Under the bill, all candidates for similar offices will be limited by the same campaign spending ceiling. A candidate who exceeds the ceiling may be penalized by publication of that fact in the media. This measure will put the decision back into the hands of the public to decide who would be best able to represent their interests.

Presently, only a candidate who voluntarily agrees to limit spending may apply for public funding from the Hawaii Campaign Election Fund. Under the bill, all candidates would be eligible to receive such funds if the candidate agrees in writing to keep and furnish records, books and other information that the Hawaii Campaign Spending Commission (Commission) may request, and agrees to an audit and examination by the Commission, as is provided under the present statute. The bill deletes the requirement that the candidate additionally agree to obtain and furnish to the Commission any evidence of campaign expenses the Commission may request. The candidate must also certify to the Commission in writing that the candidate is qualified to be on the election ballot, has filed a statement to seek qualifying contributions, has received the qualifying sums of private contributions, and verifies that the aggregate amount of contributions from any one person does not exceed allowed amounts. The bill deletes the requirement that the candidate certify that the candidate will not incur expenses in excess of the limits.

Other changes made by this bill eliminates the filing of pre-primary and pre-general preliminary reports, post-election supplemental and short form reports, reports due during any off-election year, and limits the filing of reports to once after each election. Because all candidates are subject to the spending limit, the burdensome task of having to file a multitude of reports is eliminated.

Lastly, the bill repeals the \$500 political contribution tax deduction now allowed under the law. The statute provided an incentive for candidates to voluntarily limit their spending. As this bill would mandate spending ceilings, the incentive is no longer necessary.

The Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 313, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Kuroda and A. Kobayashi.
Senator George did not concur.

SCRep. 463 Judiciary on S.B. No. 196

The purpose of this bill is to permit the Department of Social Services and Housing (DSSH) to determine the place of confinement of incarcerated persons.

Presently, the DSSH is prohibited from transferring persons, incarcerated for a definite term, from one correction facility to another. This prohibition has resulted in situations where the DSSH is unable to move a person to a facility better suited, in terms of program and security, to the individual.

Your Committee made nonsubstantive technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 196, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 196, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 464 Judiciary on S.B. No. 347

The purpose of this bill is to remove judicial discretion in sentencing for use of a firearm in the commission of a felony and to require a mandatory minimum sentence.

Your Committee finds that in 1982, 19% of violent crimes on Oahu involved the use of firearms. The potential of death or serious bodily injury dramatically increases when firearms are used in the commission of crimes. Therefore, your Committee finds that severe sanctions should be imposed when firearms are used in the commission of crimes.

Your Committee amended the bill by including class C felonies with class B felonies in the schedule of mandatory minimum sentences. Your Committee finds that the danger is not diminished whether the felony committed is a class B felony or class C felony.

Your Committee further amended the bill to require that the mandatory minimum sentence be served consecutively with the felony sentence. Your Committee finds that the deterrent effect of this measure would be diminished if the sentences were permitted to be served concurrently.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 347, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 347, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 465 Judiciary on S.B. No. 1092

The purpose of this bill is to require the attorney general to issue a nonoperator license to any person requesting one. This license is in addition to the identification certificates presently issued by the attorney general.

Your Committee finds that many retail stores and other businesses require two forms of identification before accepting a check from a customer. Most people present a driver's license and a credit card.

However, there are a number of people in the State who do not have a driver's license and a credit card. A nonoperator license, in conjunction with the identification certificates currently issued by the attorney general, would allow them a privilege that most people already enjoy.

Your Committee amended the bill by changing the name of the the piece of identification from nonoperator license to nondriver identification for clarity. Furthermore, the bill has been amended to require that the nondriver identification card issued by the attorney general be the same size and design as drivers licenses approved by the director of transportation and issued by the counties. This change was made to ensure that the state identification card and this nondriver identification card be dissimilar enough to provide the required two pieces of identification now required by many businesses.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1092, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1092, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 466 Judiciary on S.B. No. 1157

The purpose of this bill is to modernize Hawaii's criminal sentencing practices in accordance with the philosophy of the Statewide Sentencing Project done in March, 1981.

Your Committee heard testimony from The Chamber of Commerce of Hawaii that one of the primary changes to current sentencing practices made by this bill is the imposition of guidelines for use by the trial courts and the Hawaii paroling authority in imposing sentences for certain offenders. The guidelines are based on the seriousness of the offense, including whether or not it is a violent crime, and a point system which reflects the criminal history of the convicted person. The objective of this measure is to clarify the ambiguous guidance given to the judges in the present law and to increase the certainty and uniformity of punishment.

Your Committee amended the bill to change the effective date from July 1, 1983 to July 1, 1984. This will allow the affected agencies to prepare for this measure's implications.

Your Committee also added a severability clause and made a number of nonsubstantive, technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1157, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1157, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 467 Judiciary on S.B. No. 596

This bill is a housekeeping measure to facilitate the smoother planning and execution of the election process.

The amendments sought by this bill, as received, are as follows:

- (1) conforms the law to current practice by permitting the transporting and opening of ballot boxes before the closing of the polls;
- (2) clarifies the contents stated on a ballot, to whom parties must submit their lists of poll watchers, and to whom notice of withdrawal of a candidate must be given;
- (3) moves the deadlines by which a vacancy could be filled by a party, by which notice of withdrawal of a candidate must be received, and for filing the names of party officers;
- (4) permits the chief election officer to establish multiple polling place sites regardless of district boundaries, to establish one polling place for several precincts within the same district, and the return of an absentee ballot on election day to any polling place within the voter's county;
- (5) prevents the unnecessary expenditure of a county candidate running for office during the general election when there are no opposing candidates, the opening of any sealed election materials unless by court order, the establishing of multiple polling place sites after the ninetieth day prior to an election, and the change of precinct boundaries within the ninety days prior to an election;
- (6) requires a proclamation describing any new precincts and requires all candidates to obtain a notarized affidavit from their political party stating membership in that party, and notarized statements from candidates for President and Vice-President of the United States to obtain petition forms to have their names placed on the general election ballot;
- (7) provides an adjustment to the provision regarding senatorial districts; that the signers of a new party formation petition be currently registered voters; that the per cent of signatures required on party formation petitions be set by the number of registered voters as of the last preceding general election; that a new party submit its rules with the petition; and that when a person declares by affidavit that he/she is an indigent, a petition signed by one-half of one

per cent of currently registered voters as of the last preceding general election in the district in which the indigent person wishes to run will satisfy the conditions allowing the chief election officer or clerk to waive the filing fee;

- (8) deletes the initial biennial filing requirement for new parties as well as reference to adjudication as a "mentally ill person" regarding the striking of names of disqualified voters;
- (9) places the boards of registration in the Office of the Lieutenant Governor for administrative purposes; and
- (10) repeals section 11-92 dealing with precincts, polling places, and central polling areas.

Your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 596, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 596, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 468 Judiciary on S.B. No. 580

The purpose of this bill is to amend Chapter 21, Hawaii Revised Statutes, as it relates to legislative investigating committees.

Specifically the bill makes the following changes:

- (1) "Action" is defined for the purposes of the chapter as an act requiring a majority vote of the committee. Excluded from this definition are the taking or receiving of books, documents, or other evidence.
- (2) Membership of the committee is limited to five. Presently, a committee must have at least five members.
- (3) The committee is authorized to designate a person to serve subpoenas and to receive materials produced pursuant to a subpoena duces tecum.
- (4) Specifies failure to appear or testify before the committee as grounds for contempt.
- (5) Allows the presiding officer of either or both houses to appoint a special prosecutor to prosecute alleged offenses found in the committee.
- (6) Permits prosecution of contempt by the county prosecutor or special prosecutor, as well as the attorney general.

Your Committee finds that the proposed changes will facilitate and strengthen the work of the investigating committee. These changes will provide the mechanism to permit full and necessary investigations into issues of public concern.

Your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 580, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 580, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 469 Judiciary on S.B. No. 1140

The purpose of this bill is to encourage speedy trials by imposing specific time limits on the criminal justice system from indictment through appeal. It also authorizes the court, rather than the attorneys, to conduct voir dire of prospective jurors. Finally, it grants the Chief Justice the power to appoint special district court judges to handle arraignments, pleas of guilty, and other duties, and the power to withhold the salary of the entire court if any appellate court fails to meet

its deadlines.

Delay in criminal proceedings is a nationwide problem. In Hawaii, the present speedy trial standard of 180 days from arrest to trial is generous compared to other states, but is still being routinely exceeded as case backlogs continue to grow. Delays undermines the ability of government to safeguard the innocent and convict the guilty, and burdens our correctional system with an inordinate number of pre-trial detainees. Your Committee finds that this bill will greatly assist in eliminating delay as well as protect the defendant's right to a speedy trial and serve the needs of the community in the prompt disposition of criminal cases.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1140 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 470 Judiciary on S.B. No. 748

The purpose of this bill is to clarify the authority of the Family Court to grant a final divorce between the parties and reserve the issues of child and spousal support and the division of debts and property for future determination.

Appellate court decisions from several states have cast doubt on the validity of the practice in Hawaii of the reservation of these issues after the final divorce. Your Committee finds that this amendment would resolve any doubts about the Family Court's power to exercise its discretion on this question, and allow the court to reserve such issues upon the agreement of the parties or approval by court.

Your Committee amended the bill to change the standard upon which the court may order the reservation of issues from "appropriate circumstances" to "good cause." Since the reservation of issues should be the exception rather than the rule, the court should carefully consider its necessity based on the circumstances of the case. This language will so direct the court.

Your Committee has also amended the bill to make clear that the powers to modify decrees already provided by the statute are not altered by this amendment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 748, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 748, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 471 Judiciary on S.B. No. 569

The purpose of this bill is to require forensic examiners to independently arrive at their conclusions in sanity examinations and to permit them access to necessary police and juvenile records.

Your Committee finds that the accuracy and objectivity of sanity examinations will be enhanced by requiring examiners to arrive at their conclusions independently. As amended, the bill requires this independence and that the examination report contain a statement that the diagnoses and opinions were developed without collaboration.

Your Committee also made technical, nonsubstantive amendments to the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 569, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 569, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 472 Judiciary on S.B. No. 489

The purpose of this bill is to permit retired intermediate appellate court judges or supreme court justices to temporarily serve as an intermediate appellate court judge.

Presently, the law permits a retired supreme court justice to temporarily serve on the supreme court. This bill would authorize the same practice in the intermediate appellate court.

Your Committee finds that such a practice is desirable in times of increased workload and temporary judicial absences.

For the same reasons cited above, your Committee amended the bill to authorize the same practice in the circuit court. The amendment made by your Committee provides that a retired circuit court judge may temporarily serve in the circuit court.

Further amendments were made by providing for compensation of the temporary judges at rates which are equivalent to those of other judges in the same court.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 489, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 489, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 473 (Majority) Judiciary on S.B. No. 1100

The purpose of this bill is to authorize the production, prescription, distribution, and use of marijuana, including tetrahydrocannabinols, under strict guidelines, for medical purposes, in the treatment of glaucoma, asthma, alcoholism, and chemotherapy treatment. The use of marijuana is limited only to those who have received prescriptions from qualified medical practitioners. The dispensing of marijuana shall be the responsibility of the department of health.

Your Committee finds that legalizing marijuana for these purposes would be beneficial and a humane alternative for purposes of treating those people who suffer from the pain and suffering of these diseases.

Testimony received by your Committee indicates that marijuana may not be of great use in the treatment of asthma and alcoholism. Your Committee has addressed this problem by deleting reference to the treatment of asthma and alcoholism from the bill.

Additionally, your Committee does not intend to legalize the production of marijuana, for the purposes of this bill. Your Committee has removed the language on manufacturing marijuana in order to eliminate the encroachment into existing law with regard to the illegal cultivation of marijuana.

Your Committee has heard of the difficulties in obtaining marijuana for similar purposes when the other states have approached the federal government for it. For this reason, your Committee has added language to bill which would enable the state law enforcement agencies of the various counties to assist the department of health in acquiring seized marijuana for the purposes of medical usage. Other language has been included which reinforces the capacity of the department of health to acquire seized marijuana for the purposes of this act.

Your Committee eliminated the provision allowing any person to manufacture, distribute, dispense or possess such amounts of marijuana as provided in the bill as unnecessary. The Department of Health will have the duty and discretion to adopt such rules which are necessary to carry out the purposes of the chapter, including allowing people to have marijuana for medical purposes.

The Committee also deleted the civil fines for any unauthorized acts as unnecessary because criminal penalties can be instituted.

Your Committee also made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1100, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1100, S.D. 1.

Signed by all members of the Committee except Senators Cobb and Kuroda.
Senator George did not concur.

SCRep. 474 Judiciary on S.B. No. 58

The purpose of this bill is to reinstitute a nonmandatory death penalty for certain types of murder.

The Constitution of the United States and the Constitution of the State of Hawaii both expressly proscribe the infliction of cruel or unusual punishment.

Four years after its holding in Furman v. Georgia, 408 U.S. 238 (1972), which foreclosed executions under state laws then in existence, a majority of the Supreme Court of the United States held that the death penalty is a constitutionally permissible punishment, at least for carefully defined categories of murder. However, the Court went on to say that the Eight Amendment required the sentencing authority to be provided with carefully controlled discretion; a bifurcated trial was seen as the ideal procedure. Mandatory death penalty laws are, as a general rule, unconstitutional, Roberts v. Louisiana, 428 U.S. 325 (1976), Roberts v. Louisiana, 431 U.S. 633 (1977), as are statutes which give juries unbridled discretion to choose whether defendants should be sentenced to death, or to life imprisonment, Woodson v. North Carolina, 428 U.S. 280 (1976), and those which do not allow individualized consideration of mitigating factors, Lockett v. Ohio, 438 U.S. 586 (1978), Bell v. Ohio, 438 U.S. 637 (1978).

The U.S. Supreme Court has held that the death penalty does not, under all circumstances, constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. Constitutional concerns can be met by carefully drafted statutes that ensure that the sentencing authority is given adequate information and guidance. Death penalty statutes satisfying these considerations have been upheld by the Supreme Court. Gregg v. Georgia, 428 U.S. 153 (1976), Proffitt v. Florida, 428 U.S. 242 (1976), Jurek v. Texas, 428 U.S. 262 (1976).

Your Committee finds that S.B. No. 58 does not conflict with any of the following death penalty cases decided by the Supreme Court in recent years. (In addition to the cases cited above, see also Godfrey v. Georgia, 48 U.S.L.W. 4541 (1980), Adams v. Texas, ___ U.S. ___, 65 L. Ed.2d 392, 100 S. Ct. ___ (1980), Beck v. Alabama, ___ U.S. ___, 65 L. Ed.2d 392, 100 S. Ct. ___ (1980), Coker v. Georgia, 433 U.S. 584 (1977), and Gardner v. Florida, 430 U.S. 349 (1977).)

The provisions of the bill are summarized below.

The bill divides murder into categories of "first" and "second degree" murder. It defines first degree murder as the intentional causing of death where:

(1) The victim is a police officer, corrections personnel, parole officer, probation officer, county prosecuting attorney, or county attorney engaged in prosecutorial functions, while in the performance of official duties;

(2) The victim is a person known by the defendant to be a witness in a murder prosecution;

(3) The person commits the murder for remuneration in which event both the person hired and the person responsible for hiring the killer shall have committed the offense of murder in the first degree.

(4) The victim is a judge, and the murder is committed during or because of the exercise of the victim's official duties; or

(5) The victim is a person imprisoned with the defendant.

It provides for offense of first degree murder to be punishable by either death or life imprisonment with or without parole.

It requires separate sentencing proceeding after conviction of first degree murder. It requires that sentencing proceeding be before a jury. It allows introduction of any evidence relevant to sentence, but not evidence secured in violation of state or United States constitution.

It provides that aggravating circumstances include but are not limited to:

(1) Murder committed by an incarcerated prisoner;

(2) Actor committing more than one murder;

- (3) Knowingly creating a great risk to a person other than the victim;
- (4) Murder committed during commission of, attempt to commit, or flight from robbery, rape, sodomy, arson, burglary, or kidnapping;
- (5) Murder committed to avoid or prevent arrest;
- (6) Murder committed for pecuniary or personal gain;
- (7) Murder by person previously convicted of first or second degree murder;
- (8) Murder committed to prevent person from testifying or providing evidence in legal proceedings;
- (9) Unlawful or malicious use of explosive.

It requires jury to consider the following mitigating circumstances, if applicable:

- (1) The defendant has no significant history of prior criminal activity;
- (2) The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance;
- (3) The defendant was an accomplice in the murder committed by another person and the defendant's participation was relatively minor;
- (4) The defendant acted under extreme duress or under the substantial domination of another person;
- (5) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform such conduct to the requirements of law was substantially impaired; or
- (6) The age of the defendant at the time of the crime;
- (7) Any other fact in mitigation of the penalty.

It provides for jury to render a verdict on sentence to judge and provides that court will enter sentence of either death or life without parole if the jury verdict is unanimous.

It provides that if the jury does not reach an unanimous verdict imposing the sentence of death, the court shall impose the sentence of life imprisonment with or without possibility of parole. It requires court order to impose death penalty be supported by specific written findings.

It provides for automatic review by state supreme court within 60 days in all cases where death sentence imposed.

It provides that where a person who is sentenced to death appeals, and prejudicial error is found in the sentencing proceeding only, the court may set aside the death sentence and shall impose the sentence of life imprisonment without possibility of parole.

It provides for execution by lethal gas.

It provides that all persons sentenced to death have sentences changed to life imprisonment without parole in the event the death penalty in murder cases is held unconstitutional by either the state supreme court or the United States Supreme Court.

It provides that all persons convicted of murder in the second degree be sentenced to life imprisonment with possibility of parole.

The bill amends other sections of Penal Code to include appropriate references to sentences of death.

Your Committee on Judiciary is in accord with the intent and purpose of S.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 Senators Holt, Kuroda, Machida Mizuguchi, Toguchi and George.

SCRep. 475 Hawaiian Programs on S.B. No. 924

The purpose of this bill is to include in the general duties of the board of trustees the responsibility to coordinate federal, state, and county activities relating to native Hawaiians and Hawaiians with the Department of Hawaiian Home Lands, native Hawaiian and Hawaiian organizations receiving state funds, and any other appropriate agency through the establishment of a joint memorandum of agreement.

Currently, the Office of Hawaiian Affairs, under its broad constitutional mandate, is charged with serving as the principal public agency in this State responsible for the performance, development, and coordination of programs and activities relating to native Hawaiians and Hawaiians.

To eliminate costly and unnecessary duplication of effort, your Committee finds that a joint memorandum of agreement between the Office of Hawaiian Affairs and other agencies with similar objectives which receive state funds is necessary and desirable.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 924 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 476 Hawaiian Programs on S.B. No. 724

The purpose of this bill is to provide that among the members of the Hawaiian Homes Commission, there shall be an attorney, a real estate broker, a teacher, and a businessman.

Currently, the only qualifications for appointment to the Hawaiian Homes Commission are place of residence, length of residence in the State and a requirement that at least four of the eight members be one-fourth Hawaiian blood.

This bill amends Section 202(a) of the Hawaiian Homes Commission Act to require that at least one attorney, one real estate broker, one teacher and one businessman be appointed to the Commission.

Your Committee finds that the appointment of persons engaged in the occupations and professions designated will enable the Commission to more effectively discharge its duties.

Your Committee has amended the bill to reflect the recent reapportionment of voting districts by deleting the requirement that the three Honolulu members reside in certain Senatorial districts.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.B. No. 724, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 724, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. No. 477 Health on S.B. No. 934

The purpose of this bill is to establish statutory guidelines for handling and retention of medical records.

Current laws are silent on the question of how long health care providers must retain patient records and the manner of handling such records. This has led to concern by health care providers who are confronted with the problem of retaining voluminous amounts of patient records for fear that destroying such records may result in liability for malpractice. Because a person's medical history can play an important part in diagnosing and treating present ailments, such fears are not unfounded.

This bill addresses the problem by requiring retention of medical records for a period of ten years after the last data entry and specifying that records may be

computerized or minified to facilitate storage. The bill also requires that upon destruction of medical records after the ten-year period, certain information which may be helpful in treating present illnesses of the patient be retained.

Your Committee has amended the bill to differentiate between health care facilities and individual health care providers, with regard to the information which must be retained after the ten-year retention period. This amendment was made in recognition of the different types of records kept by practitioners and facilities.

Your Committee finds that this bill, as amended, provides guidelines for retention and handling of medical records which are compatible with sound medical practice and will afford protection to health care providers and patients.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 934, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 934, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 478 Health on S.B. No. 361

The purpose of this bill is to amend §321-242, Hawaii Revised Statutes, to permit the Department of Health to provide the services of either a full-time or a part-time health aide to each public school.

Presently the statute requires the Department to provide "the necessary number of health aides in order to service each public school," which has been generally understood to mean full time positions.

Your Committee finds that this bill will give the Department the flexibility to appropriately staff the smaller schools which do not require full time services and redeploy its resources to large schools where considerably more health aide man-hours are needed.

Upon consideration of this measure, your Committee has amended the bill to delete the reference to establishment of rules as the Director of Health has general authority to adopt rules. Further, language changes have been made to clarify the intent of the bill.

Your Committee has further amended the bill by incorporating language to insure that no full time position presently assigned to a school will be downgraded to a part-time position as a result of the proposed amendment of Section 321-242.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 361, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 361, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 479 (Majority) Health on S.B. No. 359

The purpose of this bill is to improve the administration and enforcement of Chapter 328, Hawaii Revised Statutes, by eliminating duplication of effort between the Department of Health and the Department of Agriculture, by clarifying and updating references to the Federal Food and Drug Administration rules, and by providing for civil penalties and injunctive relief.

Under present law, the Department of Agriculture regulates animal food, except food for dogs and cats, and the Department of Health regulates food for man and animals. This bill eliminates the apparent duplication by defining food, for Department of Health purposes, as "articles used for food or drink by man, dog or cat."

The federal rules relating to food, drugs, and cosmetics adopted by the 1977 Legislature have been amended and recodified by the Federal Food and Drug Administration. This bill will allow the Department of Health to accommodate any future changes and amendments in FDA rules without the need for statutory amendment.

According to testimony provided by the Department of Health, the civil penalties provided in this bill are necessary for the enforcement of Chapter 328 and are in

line with other penalties levied under the pollution control laws administered by the Department. While the Hawaii Food Industry has testified that they believe the proposed fining power under administrative rules is excessive and should be done only by the courts, your Committee finds that appeals to the courts are permitted under existing law and that the pressure of significant administrative penalties will have significant impact in preventing violations of the law.

Your Committee has amended the bill by reducing the maximum civil penalty which may be assessed from \$25,000 to not more than \$10,000 for each separate offense.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 359, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 359, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 480 Health on S.B. No. 236

The purpose of this bill was to assure that victims of breast cancer be apprised of alternative treatment modalities in addition to mastectomy.

Your Committee on Health finds that this addition to the existing informed consent statutes is necessary in order to protect patients from acceding to radical surgery without knowledge of less disfiguring but potentially as effective treatments which they might prefer.

Your Committee amended the bill to simplify compliance and delete time requirements.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 236, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 236, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Young and George.

SCRep. 481 Agriculture on S.B. No. 993

The purpose of this bill is to allow an owner of Class A or B agricultural lands to cultivate crops for personal or economic use.

Presently, the law permits cultivation of crops for economic use, however, the law has been construed to prohibit cultivation of crops for personal use.

This bill provides that Class A or B rated agricultural lands may be used either for economic or personal use.

Your Committee finds that, with the high cost of living, an owner should be allowed to cultivate his land for personal use as the land will still be used for agricultural pursuits.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 993 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 Youth and Elderly Affairs on S.B. No. 1146

The purpose of this bill is to require dual reporting of child abuse or the threat thereof, to both the Department of Social Services and Housing and the police. It also requires reporters to provide any and all information believed by the Department or the police to be related to the alleged incident of child abuse. The bill further provides that medical records and reports be included when requested, and provides a penalty for failure to do so.

Currently, persons who, in the performance of their professional or official duties, know or have reason to believe that a child has been abused or neglected or is threatened with abuse or neglect are required to promptly report the matter to the police or the Department of Social Services and Housing.

Your Committee has accepted the recommendation of the Department of Social Services and Housing and the Honolulu Police Department to amend the bill to delete the dual reporting requirement. Those agencies submitted testimony stating that dual reporting would result in needless duplication of effort, increased costs, and tend to discourage reporting.

Your Committee has further amended the bill by making nonsubstantive changes for the purpose of clarity.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of S.B. No. 1146, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1146, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 483 Youth and Elderly Affairs on S.B. No. 717

The purpose of this bill is to include prevention of child abuse and neglect under the purview of the Department of Health's preventive medicine program.

Currently, child abuse and neglect services are provided by the Department of Social Services and Housing after a child has been abused or neglected. The Department of Social Services and Housing does not provide preventive services in this area.

Your Committee finds that preventive child abuse and neglect services belong in a comprehensive program of maternal and child health services under the Department of Health and should be so expressed in the statute. Your Committee notes that it is not the intent of this bill to transfer, alter, or diminish the role of the Department of Social Services and Housing in this area but to address the preventive aspect of child abuse and neglect. Your Committee further finds that to do so would not necessitate the development of additional state services.

Your Committee has amended the bill by including among the functions of the Department of Health relating to preventive medicine the responsibility to plan, develop, and administer in addition to supervise and coordinate activities. In addition, your Committee has amended the bill by making nonsubstantive changes for the purpose of clarity.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of S.B. No. 717, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 717, S.D. 1.

Signed by all members of the Committee.

SCRep. 484 (Majority) Health on S.B. No. 850

The purpose of this bill is to strengthen the statute on milk control and establish definitions for "milk," "filled milk" and "sterilized milk".

Currently the Department of Health enforces U.S. Food and Drug Administration milk standards. However, your Committee finds that there is need to grant the Department additional statutory powers to protect the public safety.

This bill authorizes the Department of Health to set requirements concerning the number and character of bacteria in milk and provides that no milk shall be allowed a shelf-life of more than eight days. "Shelf life" is defined as the time between the milk's processing and sale. The term "milk," "filled milk," and "sterilized milk" are all comprehensively and technically defined in order to clarify the milk-related statutes and the Department's authority and obligations thereunder.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 850 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators B. Kobayashi and George did not concur.

SCRep. 485 (Majority) Health on S.B. No. 851

The purposes of this bill are to limit the time that elapses between the delivery of raw milk to the processing plant and delivery of the processed milk to the retail outlet; establish bacterial requirements for milk; and establish definitions for "milk", "filled milk", and "sterilized milk".

Currently, the statute is silent as to how soon milk must be delivered to retail outlets once it has been delivered to a processing plant. Standards relative to bacterial requirements are provided to the Department of Health by the U.S. Food and Drug Administration on a voluntary basis.

Your Committee finds that the recent "heptachlor crisis" has severely damaged the consumer's confidence in fresh fluid milk. In order to restore this confidence and to protect the public safety your Committee finds that granting additional statutory powers to the Department of Health is warranted.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 851 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.
Senator George did not concur.

SCRep. 486 Consumer Protection and Commerce on S.B. No. 764

The purpose of this bill was to amend the present ceiling on credit card finance charges.

Presently, Section 478-11, Hawaii Revised Statutes, limits finance charges permitted under credit card agreements to 18 per cent a year, a rate that has not been changed for many years.

Your Committee received testimony from retailers who stated that the costs of extending credit to consumers have been steadily increasing and now exceed the amount of money received as finance charges. The present law has the effect of preventing the costs of credit from being passed on to credit users and therefore some of those costs are shared by all consumers in the form of higher prices.

Your Committee amended the bill as follows:

1. The provision of the bill to deregulate finance charges was deleted. Although testimony indicated that some relief is warranted, your Committee does not favor deregulation at this time. The bill was amended to allow finance charges of no more than 21 per cent of the unpaid balance, if a card is issued without fee.
2. The present 18 per cent limit was retained for credit cards for which a fee is charged. Certain card issuers have used an annual fee to supplement finance charge income. However, certain issuers, such as retailers, may not be in a position to charge a fee for their credit card. Your Committee narrowed the scope of the bill to provide relief to those credit card issuers who do not charge a fee for their credit cards. It is the intent of your Committee to prevent consumers from being "hit twice", *i.e.*, paying both higher finance charges and a fee.
3. Section 478-8(h) was amended to clarify the bill's application to the credit card sales of merchants.
4. A section was added to the bill to specify that the bill will not affect unpaid balances existing before the effective date of the new permitted rates.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 764, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 764, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 487 (Majority) Consumer Protection and Commerce on S.B. No. 810

The purpose of this bill was to provide that loan fees or "points" shall be fully earned on the date the loan is made by an industrial loan company, and shall not be subject to refund upon prepayment of the loan.

Current law which governs industrial loan companies is silent on the practice of loan fees and points, although all other major mortgage lenders such as banks, savings and loan associations, insurance companies and mortgage companies charge loan fees that are not refundable.

Your Committee has received favorable testimony from various organizations including the Hawaii Consumer Finance Association and the Department of Commerce and Consumer Affairs. This bill will allow the industrial loan companies to charge nonrefundable loan fees or points.

Your Committee has amended the bill by deleting the limit on the percentage of the principal amount of the loan from which loan fees may be established as it would place an unreasonable restriction upon industrial loan companies. Your Committee has also made nonsubstantive changes for the purpose of clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 810, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 810, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.
Senator Cayetano did not concur.

SCRep. 488 Consumer Protection and Commerce on S.B. No. 191

The purpose of this bill was to delete the requirement that the Board of Certification for Practicing Psychologists submit an annual report to the Governor.

A memorandum submitted by the Deputy Director of Commerce and Consumer Affairs indicates that of the thirty boards and commissions placed within the Department of Commerce and Consumer Affairs, fifteen are required to submit annual reports either to the Governor or the Legislature. Attached is a copy of the memorandum.

Your Committee finds that the Legislature's ability to elicit information will not be affected if the annual report is eliminated since quarterly reports are provided to the Department of Commerce and Consumer Affairs. Furthermore, your Committee has been assured that any information called for in the annual report is readily available to the Governor upon request.

Your Committee has amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 191, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 191, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 489 Consumer Protection and Commerce on S.B. No. 177

The purpose of this bill was to amend Chapter 453, Hawaii Revised Statutes, to remove references to gender and change references to the Department of Regulatory Agencies to the Department of Commerce and Consumer Affairs.

Supporting testimony was heard by the Department of Commerce and Consumer Affairs and the Hawaii Medical Association.

Your Committee has amended the bill to repeal Section 453-3.1, HRS, which is an anachronistic section to allow a practitioner licensed in another jurisdiction and who is an expert in hyperbaric medicine to practice hyperbaric medicine only in Hawaii.

Your Committee has further amended the bill by deleting the "good character" requirement for obtaining a license and by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 177, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 490 (Majority) Consumer Protection and Commerce on S.B. No. 640

The purpose of this bill is to provide a statute of limitations to limit the commencement of tort actions arising out of the planning, design, suretyship, manufacturing and supplying of materials, construction, supervision, and administering of construction and observation of construction relating to an improvement to real property, to two years after accrual but no more than six years after completion of the improvement.

Under current law, liability in tort for damages resulting from improvements to real property is unlimited and covered only by the traditional tort statutes of limitation. There is no real time limit within which such a tort action must be commenced. Prior attempts to provide such a limitation of actions have been invalidated by the Hawaii Supreme Court.

This bill proposes to establish a time limitation within which the action may be initiated to two years after the injury accrued but not later than six years after completion of the improvement to real property.

Your Committee finds that Hawaii has the highest average home prices in the nation. The Honolulu Board of Realtors Multiple Listing Service showed the average cost of a single family home sold in Hawaii in the first seven months of 1981 was \$184,559. For the same period, the average price of a home in San Francisco, was \$133,900, \$50,000 less than Honolulu.

Hawaii's Legislature has attempted to make homeownership available to the greatest number of its residents through programs such as the Hula Mae loan program and the leasehold conversion law (Chapter 516, HRS).

Your Committee finds that the enactment of this bill to provide immunity from suits after a period of six years for certain activities relating to improvement of real property will result in keeping the cost of housing in Hawaii from rising even further. It is the obligation of the Legislature to do all it can to control the high cost of housing so that the dream of homeownership does not slip from the grasp of an even greater number of Hawaii's residents.

Testimony presented indicated that the increased costs of liability insurance carried over the life of any improvement to real property places unfair burdens on the insured persons and the insurance companies. The existence of a limitation on liability can reasonably be expected to help stabilize construction costs and therefore benefit the citizens of the State.

Thus the State's interest in, and the objective of the proposed legislation is to help keep the cost of housing and other construction from rising even further and at an accelerated rate.

Your Committee further finds that unlimited exposure to liability is an unfair burden to impose on any group of persons and that a time limitation for such liability is warranted.

Your Committee believes that the Legislature must be concerned with the prompt assertion of claims and fairness for defendants and that the six-year limitation proposed by this bill is reasonable.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 640, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 640, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.
Senator Cayetano did not concur.

SCRep. 491 Consumer Protection and Commerce on S.B. No. 169

The purpose of this bill is to require a motor vehicle repair dealer to have a registered or a registered and certified motor vehicle mechanic in its employment before a repair shop can be registered.

Your Committee received testimony from the Motor Vehicle Repair Industry Board which supported passage of this bill, and was favorably impressed with the efforts of the industry to establish accountability and responsibility within repair establishments. The bill also applies to advertising by requiring that no motor vehicle repair dealer advertise without holding a valid motor vehicle repair dealer license. This would provide added protection to the interests of consumers who require the services of motor vehicle repair shops.

Your Committee amended the bill to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 169, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 492 Consumer Protection and Commerce on S.B. No. 785

The purpose of this bill is to make a number of technical corrections in the Retail Installment Sales Act, Chapter 476, HRS, and to conform the law, conceptually as well as technically, to other federal and state credit legislation.

In recent years great changes have occurred in the state and federal regulation of consumer credit and in the nature of these transactions. Each year since 1979 Hawaii has amended both Chapter 408, HRS, and the General Usury Law, Chapter 478, HRS. In 1981 Hawaii enacted its Plain Language Law, Chapter 487A, HRS, which was revised in 1982. In July, 1969, the federal Truth-in-Lending Act took effect. In October of 1982 the Truth-in-Lending Simplification and Reform Act effected a comprehensive revision of the Truth-in-Lending Act. Various Federal Trade Commission trade regulation rules, such as the Holder In Due Course Rule, have also been imposed.

Because Chapter 476, including many of its technical requirements, was adopted in 1961, and many specific amendments that have been made over the years since then deal only with particular subjects, Chapter 476 does not conform with, and in many ways is not consistent with, related provisions of federal law and other state law. These inconsistencies have undercut the parity between sellers and industrial loan companies that was intended when Chapter 476 was first passed. They have also made compliance with technical requirements difficult and in some cases counter-productive insofar as the consumer is concerned. Your Committee notes that many credit sellers are small businessmen that have been hurt by current economic conditions and that these changes should facilitate credit sales in this State.

Specific changes are described as follows;

1. GENERAL. The phrases "retail installment sale" and "retail installment contract" are changed in the title and throughout the chapter to "credit sale" and "credit sale contract", respectively. Although the expressions "retail installment sale" and "retail installment contract" are understood reasonably well by lawyers and legislators, they have little meaning to members of the public. Typically, the public's only contact with those expressions arises when they see the name "retail installment contract" on the top of the document that they sign when they buy a car or an appliance. The Truth-in-Lending Act and Regulation Z indicate that the real focus of this type of legislation is on the credit aspect of the transaction, without regard to the number of payments involved. The coverage of Chapter 476 is being changed to conform to that concept. Since the word "credit" is generally understood, your Committee believes that changing the title from "retail installment sales" to "credit sales" will make the focus and coverage of this chapter more accurate and more understandable. Consistent changes have been made throughout the chapter.

Your Committee recognizes that a change in terminology such as this may be burdensome on sellers and other financial institutions that have stocks of forms that may be wasted. For that reason your Committee has revised Section 3 of this bill so as to permit sellers to use up pre-existing stocks of forms during the first year after the effective date. It is, of course, intended that sellers so doing will not incur liability arising from the variance in the title, notices and so forth between their old forms being used up and the requirements newly imposed.

2. SECTION 476-1. The definitions have been numbered and placed in alphabetical order for easier reference and citation. Changes in specific definitions are described as follows:

- (1) "Cash Price". This definition has been changed to conform it to the same concept in Federal Reserve Board Regulation Z.
- (3) "Credit Sale". This definition has been changed to conform it to the same concept in Regulation Z with the following exception. Sales for business, commercial or agricultural purposes, or to organizations, or for consumer purposes in which the amount financed exceeds \$25,000 are not excluded from the coverage of this chapter if the seller is charging a finance charge at a rate that is permitted by this chapter but is in excess of the rate that the seller would be allowed to charge under other statutes. Although the Truth-in-Lending Act indicates wide acceptance of the idea that the transactions just described should be free from disclosure requirements, your Committee feels that if in such transactions the sellers wish the benefit of the higher rate finance charges permitted by this chapter, which they have now, they should continue to have it, but only if they conform to the regulations imposed by this chapter on credit practices.
- (4) "Credit Sale Contract". This definition has been changed primarily to conform the coverage of this chapter to that of the Truth-in-Lending Act and Regulation Z. The regulated credit is that which is subject to a finance charge or, pursuant to a written agreement, is payable in more than four installments (not including a down payment). Excluded from coverage will be contracts involving advances by a third party in payment of the buyer's purchase price obligation to the seller. The third party in most such transactions is a bank, savings and loan association, or industrial loan company that is regulated by Chapter 408, so that the consumer is adequately protected. Exclusion of this aspect of the definition removes unsolved questions concerning the coverage by Chapter 476 of transactions in which an existing retail installment contract is refinanced by a new creditor.

Also excluded from coverage will be transactions involving no finance charge in which the purchase price is payable in four installments or less. This change will help eliminate the question concerning the coverage by Chapter 476 of the typical construction contract.

The portion of the definition referring to contracts for bailment or leasing of goods is revised slightly to conform it to the same concept in Regulation Z.

- (5) "Credit Seller". This definition has been changed to conform it to the same concept in Regulation Z.
- (6) "Finance Charge". This definition has been changed to conform it to the same concept in Regulation Z.
- (7) "Goods". This definition has been changed to conform it to the Uniform Commercial Code. There is no analogous definition in the Truth-in-Lending Act or Regulation Z. The important references to merchandise certificates or coupons issued by a credit seller are retained. The definition will still apply to things attached to real property in the nature of fixtures, as defined in Section 9-313 of the Uniform Commercial Code, but it will not apply to improvements incorporated into real estate in the manner of lumber, bricks, tile, cement, glass, metal work and the like unless the structure to which they are attached itself remains personal property. "Services" have been excluded from the definition of "goods" for the sale of clarity. Throughout the chapter wherever the reference to "goods" would also apply to "services", appropriate language has been added.
- (8) "Official Fee". This definition has been expanded so as to conform it to the same concept in Regulation Z.

- (9) "Person". This definition has been expanded so as to conform it to the same concept in Regulation Z.
- (10) "Principal Balance". This is a new definition incorporated from Regulation Z. It is, however, substantially identical to the concept previously included as item 6 in Section 476-3.
- (12) "Services". This definition, which now stands alone, has been expanded to bring in concepts from the Uniform Consumer Credit Code, which has been passed in other states, in order to facilitate the use of this chapter by certain industries which in the past have for technical legal reasons been thought to be extending privileges or financial arrangements, rather than services. The important reference to fees, costs, fines, bails and other court charges has been retained.
- (13) "Total of Payments". The previously defined term "time balance" has been changed to "total of payments" in order to conform it to the same concept in Regulation Z.
- (14) "Total Sale Price". This definition has been changed to conform it to the same concept in Regulation Z.

3. SECTION 476-2. This section (at present Section 476-1.5) has been simplified. It has also been brought up to date by incorporation of the reference to the Official Staff Commentary adopted by the Federal Reserve Board.

4. SECTION 476-3. Generally the changes in this section (at present Section 476-2) are intended to allow greater flexibility while at the same time imparting clearer and more useful information to the buyer while retaining other buyer protections. The changes at the beginning of this section provide for credit sales that involve a second document to be separately signed and to be filed or recorded with a governmental agency. At the present time, it is not clear that a retail installment sales transaction may be structured in that way. Following the pattern adopted by the Federal Reserve Board with respect to Regulation Z, the notice requirement in this section has been changed to allow the seller to include in the contract a notice substantially similar to that required. This change, while protecting the rights of the buyer, will avoid imposition of penalties for substantially de minimus spelling or punctuation errors or for changing the pronouns in the notice to conform it to the rest of the contract.

The substance of the notice requirement has also been changed in a number of respects. First it has been changed to conform to proposed changes in Section 476-8, which will be discussed below. An admonition to the buyer to keep a copy of the contract has been added. The prepayment refund information in the notice has been deleted because it is now irrelevant in the majority of transactions. Most retail installment contracts now impose a finance charge on a simple interest basis, in which case, the buyer has no right to a refund upon prepayment. Likewise, since many retail installment contracts cover only the sale of services, the property redemption information is often irrelevant. For that reason it has been deleted. In place of those two provisions in the notice, the buyer is told generally that the contract is covered by Hawaii Credit Sale Law and that the buyer has rights under that law. The buyer is also informed of possible rights under other state and federal laws.

The requirement with respect to information on the sales slip or other evidence of purchase has been changed to conform it to the same concept in Regulation Z. The requirement that the contract, the sales slip or other evidence of purchase contain a detailed description of the goods has been relaxed, largely because of extensive non-compliance. Particularly with respect to open-end credit arrangements, it is impossible to put the details of future purchases in the contract itself, and it is impractical to put them in the evidence of the purchase. Typically a department store will simply indicate the name of the department from which the purchase was made. An enterprise that sells a large number of low price items may simply indicate "mdse". With respect to one-time, closed end transactions, the seller that is retaining a security interest in the goods will have to give detailed description of them in order to meet the requirements of the Uniform Commercial Code Section 9-203(1). With respect to credit sales of services or goods that are not sufficiently valuable to justify the seller's retention of a security interest, it would seem adequate for the purposes of the transaction between the buyer and the seller simply to describe the services or goods by type.

5. SECTION 476-4. The section (at present designated Section 476-3) was deleted in the bill as originally filed. Your Committee reinstated it in order to assure that consumers will receive disclosure of the essential financial terms of their transactions. It has been revised so as substantially to conform with the concepts of the Truth-in-Lending Act. Its application has been limited to consumer credit sales not covered by the Truth-in-Lending Act. In the event, however, that the Truth-in-Lending Act, or Regulation Z or the Official Staff Commentary are hereafter amended so that sellers are no longer required to disclose to buyers substantially all of the items required by this section, the Director of the Department of Commerce and Consumer Affairs is authorized to exercise his or her rule making power to extend the application of this section to sales even though they are covered by the Truth-in-Lending Act or Regulation Z. Your Committee finds that in commercial and agricultural transactions, the buyers will be sufficiently alert and concerned that they will find out all of the pertinent information on their own inquiry.

6. SECTION 476-5. Your Committee notes that Chapter 476 contains no prohibition of variable rate transactions. The change in this section (at present Section 476-3.1) is intended to avoid the problems arising from variable rate transactions in which it is impossible to forecast whether future rates of finance charge will be more or less favorable to the buyer.

7. SECTION 476-6. This new section has been added to conform Chapter 746 with Chapter 408, and to Section 408-15(g) in particular, concerning industrial loan companies.

8. SECTION 476-7. This section (at present Section 476-4) has been changed to eliminate the type size requirement with respect to buyer's acknowledgment of delivery of a copy of the contract. The Federal Reserve Board has eliminated type size requirements from Regulation Z, and in view of the large quantity of 10 pt. bold type that buyers are at present faced with in retail installment sale contracts, it seems to your Committee appropriate to do so. The requirement with respect to the location of the acknowledgment has been made slightly more flexible. This change is intended to eliminate problems arising from the lack of clarity of the existing location requirement arising from the failure of the section to specify the meaning of the work "legend".

9. SECTION 476-8. This section (at present Section 476-6) has been changed to clarify and simplify the requirement with respect to certain motor vehicle contracts that a notice be included warning the buyer that the contract does not include liability insurance and does not meet the requirements for proof of financial responsibility. The type size and color requirements have been eliminated for the same reason mentioned above with respect to the change in Section 476-7. The notice itself has been simplified slightly. The requirement that the seller furnish a statement of insurance coverage and that the buyer acknowledge the same in writing has been eliminated because it has been superseded by Regulation Z requirements as to disclosure of insurance coverage and cost and that the buyer affirmatively request the same with signature or initials. The provision with respect to refund of unearned insurance premium has been made more flexible in order to permit the holder of a credit sale contract to pay the refund directly back to the buyer as an alternative to applying it to the last installment, as is now required in all cases.

10. SECTION 476-9. This section (at present Section 476-7) has been changed in order to conform it to the same concepts in Chapter 408, particularly Sections 408-15(b)(5), 408-15(h)(4) and 408-15(j)(3).

11. SECTION 476-10. This section (at present Section 476-8) has been changed to conform it to the same concept in Uniform Commercial Code Sections 3-115 and 3-407. In fact retail installment contracts are rarely completed in such a way that there are no blank spaces left in them. To do so, a seller must insert at least the letters "NA" meaning "not applicable", in every space in the contract that is not filled in with a number, with words or with an "X" or check to indicate a choice. In most instances those blank spaces are irrelevant to the transaction between the seller and the buyer. Even if they are not filled in, the contract is not incomplete in any necessary respect. The elimination of the present blank spaces requirement does not dilute protection of the buyer particularly if a copy of the contract is retained, and will avoid an entrapment situation to which an inadvertent seller may be exposed.

12. DELETED SECTION 476-14. This section is eliminated because all provisions relating to enforcement of security interests have been deleted from Chapter 476 because otherwise covered by Article 9 of the Uniform Commercial Code. The particular subject matter of this section is covered by Sections 9-503 and 9-507(1) of the Uniform Commercial Code.

13. SECTION 476-16. This section (at present Section 476-15) has been changed so as to include Section 476-23, so that similar matters are treated together.
14. SECTION 476-17. This section (at present Section 476-16) has been limited to consumer transactions. Business, commercial, and agricultural transactions are of such large variety and are often for such large amounts that it may not be practical to limit the subsequent liens or security interests that may arise to secure the buyer's obligations under the contract.
15. SECTION 476-19. The references to subsection (d) have been deleted from this section (at present Section 476-18), because no longer accurate. Subsection (d) has been changed to conform it to the Holder In Due Course rule adopted by the Federal Trade Commission.
16. SECTION 476-20. The finance charge forfeiture provision of the second paragraph and the cure provision of the third paragraph of Section 476-22 are consolidated with this section (at present Section 476-19) so that similar matters are treated together. The cure provision is expanded in order to conform it to the same concept in Regulation Z. A bona fide error defense is inserted for the same reason. The attorney's fee provision is expanded so that fees may be awarded to the prevailing party without regard to whether it is buyer or seller. This is done in order to avoid encouraging unwarranted claims and defenses, which at the present time burden the courts.
17. SECTION 476-21. The changes in this section (at present Section 476-20) are intended to provide the buyer with a release of all security for the contract, not just the security interests in the goods sold under the contract, when the contract is paid in full.
18. SECTION 476-22. The changes in this section (at present Section 476-21) are intended to clarify it.
19. DELETED SECTION 476-22. This section is eliminated altogether. The second and third paragraphs of it have already been consolidated in with Section 475-20. The criminal penalties provision in the first paragraph of this section is eliminated because it has rarely, if ever, been enforced. Consumer credit protection laws are very effectively enforced by "private attorneys general", as indicated by experience with the Truth-in-Lending Act and Regulation Z which have been the subject of literally thousands of actions seeking civil penalties. The prosecutor should not be burdened with such matters.
20. DELETED SECTION 476-23. This section has been consolidated with Section 476-16.
21. SECTION 476-23. This section (at present Section 476-25) has been changed to allow more flexibility in the way that buyers and sellers structure their transactions. They will be able to add old purchases to a new contract, as well as to add new purchases to an old contract. Initially all disclosure requirements were eliminated. Your Committee reinstated them in order to assure that consumers will receive disclosure of the essential financial terms of their transactions. Their application has been limited to consumer credit sales not covered by the Truth-in-Lending Act. In the event, however, that the Truth-in-Lending Act, or Regulation Z or the Official Staff Commentary are hereafter amended so that sellers are no longer required to disclose to buyers substantially all of the items required by this section, the Director of the Department of Commerce and Consumer Affairs is authorized to exercise his or her rule making power to extend the application of this section to sales even though they are covered by the Truth-in-Lending Act or Regulation Z. The provision with respect to application of payments has been broadened in order to encompass the seller's right to charge delinquency charges, court costs and attorney's fees, which are permitted elsewhere in the chapter.
22. SECTION 476-24. The changes in this section (at present Section 476-30) are solely for clarification.
23. SECTION 476-25. The second paragraph of this section (at present Section 476-31) was eliminated because no longer relevant. It seems virtually certain that there are no retail installment contracts still in effect that were signed before June 5, 1967, over fifteen years ago.
24. SECTION 476-26. The changes in this section (at present Section 476-32) are for clarification.

25. SECTION 476-27. This section (at present Section 476-33) is changed in order to make it consistent with Sections 408-15(b) and 408-15(j) with respect to the amount or rate of finance charge that can be assessed. At the present time this section places a maximum amount on the finance charge that can be collected on a retail installment contract by equating it to a described loan made under the provision of Chapter 408 in which interest is deducted in advance. This maximum limit applies without regard to the method, whether add-on, discount, or simple interest, used to assess the finance charge on the retail installment contract. In addition, because the hypothetical Chapter 408 loan is described in this section as one "to run for the same period as the retail installment contract, where the actual cash received by the borrower after deduction of interest in advance would be equal in amount to the time balance of the retail installment contract", at the present time the maximum annual percentage rate that would be permitted on a 48-month retail installment contract is well over 60 percent. One of the changes that has been made in this section is to substitute the "principal balance" for the "time balance" in the finance charge calculation in order to remove the rather extreme result. This section is also changed so that the maximum rate or amount of finance charge that can be assessed on a retail installment contract is determined by a comparable loan under Chapter 408 in which interest is charged in the same manner as it is in the retail installment contract. In addition, in order to make this section consistent with Section 408-15(b) provisions are added for interest after maturity.

26. DELETED SECTION 476-34. This section is deleted because all provisions in this chapter relating to security interests were deleted in the last Session, and the Uniform Commercial Code applies to security interests and credit sales automatically, without the necessity of this section.

27. DELETED SECTION 476-28. This section (at present Section 476-35) was initially deleted because consumer credit advertising is now governed by the Truth-in-Lending Act and Regulation Z. Your Committee has reinstated it, however, to assure that consumers will receive full disclosure in credit advertising. Its application has been limited to consumer credit advertising not covered by the Truth-in-Lending Act. In the event, however, that the Truth-in-Lending Act, or Regulation Z or the Official Staff Commentary are hereafter amended so as to substantially diminish the requirements thereof with respect to disclosures in such advertising, the Director of the Department of Commerce and Consumer Affairs is authorized to exercise his or her rule making power to extend the application of this section to such advertising even though it is covered by the Truth-in-Lending Act or Regulation Z.

28. SECTION 476-29. This new section is added to insure that there is a clear resolution of conflicts of law questions relating to the application of this chapter to credit sales transactions. The source of this proposed section was the Uniform Consumer Credit Code which has been adopted in several different jurisdictions.

29. DELETED SECTION 476-36. This section has been deleted because no longer apparently necessary. Your Committee is unaware of any recent transactions involving "consumer notes". Furthermore the matter is fully covered by the Holder In Due Course Rule adopted by the Federal Trade Commission.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 785, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 785, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 493 Consumer Protection and Commerce on S.B. No. 786

The purpose of this bill was to prohibit the creation of new time share units or plans in a project that contains existing time share units or plans unless explicitly authorized by the project instruments or unless the project instruments are amended by unanimous vote of the unit owners to explicitly authorize time sharing.

Current statutory provisions require new time share units or plans in a project

which contains an existing time share unit or plan to be regulated in accordance with the terms of the project instruments. The bill as received by your Committee would permit new time sharing in a project only if such use is specifically authorized by the project instrument. Alternatively, where the project instrument is silent, and does not prohibit time sharing, the owners of units which are not time shared would be permitted to determine whether additional time sharing should be allowed.

Your Committee upon consideration of this measure, amended the bill by deleting the word "unanimous", on page 1, line 10, and substituting the language, "a required percentage vote as set forth in the by-laws". This amendment was made as your Committee felt that the requirement of unanimous approval of unit owners would effectively ban the creation of new units or plans.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 786, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 786, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwayne, Henderson and Soares.

SCRep. 494 (Majority) Consumer Protection and Commerce on S.B. No. 452

The purpose of this bill is to require separate financial records and books of account of common profits and expenses to be kept for mixed use projects containing both residential and commercial use apartments.

This bill would insure greater financial accuracy and accountability by requiring the managing agent of the project to provide owners with separate financial records for residential and commercial apartments.

Your Committee heard testimony from the Hawaii Council of Associations of Apartment Owners and the Hawaii Association of Realtors opposing the bill on grounds that it would result in increased costs to owners.

Nonetheless, your Committee, having considered the testimony and the needs of consumers in this instance, is in agreement that this bill ensures, to the greatest extent possible, a fair and equitable distribution of costs between residential and commercial use apartments in mixed use projects.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 452 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwayne, Henderson and Soares.

Senators Chang and B. Kobayashi did not concur.

SCRep. 495 Consumer Protection and Commerce on S.B. No. 801

The purpose of this bill was to amend Section 408-2.1, Hawaii Revised Statutes, to permit individuals to use the words "finance", "financial", and words of similar import as a part of their professional or academic designation.

These words are presently reserved exclusively for firms and other entities engaged in the industrial loan business.

Your Committee has received testimony from insurance practitioners and other professionals, who have received academic training and degrees in personal financial planning, financial counseling and similar fields, who are currently prevented from designating their specialty because of the present law.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 801, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 801, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 496 Consumer Protection and Commerce on S.B. No. 757

The purpose of this bill was to require contractors working directly or indirectly for the federal government to be licensed under Hawaii's contractor licensing laws.

Under current law all construction work performed within the State must be performed by a contractor licensed under Chapter 444, Hawaii Revised Statutes. The law is unclear as to whether a contractor performing federal work is covered under Chapter 444.

Your Committee finds that a general contractor may bid on a federal project and, if that contractor is awarded the contract, may employ subcontractors who are not licensed pursuant to Chapter 444. Many of the contractors bidding are contractors whose offices are based out of State. In many cases these contractors are not paying Hawaii's worker's compensation rates. Your Committee is well aware of the high cost of worker's compensation in the State of Hawaii and the State's dubious distinction of having the highest costs in the nation in many construction categories. The outside contractor is supposed to notify the insurance agent that work is being performed in Hawaii, but many times this does not occur.

Your Committee also recognizes the huge dollar loss the local construction industry suffered because of the lack of contracts given to local contractors. Research shows that in 1980, \$14,380,290 went to outside firms; in 1981, \$77,905,872, and from January to September 1982, \$11,347,518 went to outside firms.

This bill would require all contractors doing work within the State to be licensed according to Hawaii's contractors licensing law.

Your Committee has amended the bill by adding a severability clause to section 444-1.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 757, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 757, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 497 Consumer Protection and Commerce on S.B. No. 529

The purposes of this bill were to allow a licensed industrial loan company to sell loans to any person or company licensed or authorized by another state or the federal government to make or service loans and to allow the purchaser of the loans to collect interest and enforce the terms of the loan to the same extent as the seller of the loan would have except for the sale of the loan.

Currently, industrial loan companies are prohibited from selling loans, at interest rates higher than general usury laws, to any person unless that person can make the same loan. The purpose of this prohibition was to prevent a person or company from circumventing the law by using an industrial loan company as a conduit for obtaining higher rate loans.

Your Committee finds that there is a need to allow industrial loan companies to sell their loans to out of state investors who are properly authorized or licensed under other state or federal authorities to make or purchase loans, particularly in view of the increasingly active federal second mortgage purchase programs.

Your Committee has amended the bill by adding language to specify that the loan must be one which is primarily secured by an interest in real property. The purpose of the amendment is to insure that our capital-short State will have sufficient money available for real estate mortgages.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 529, as amended herein, and recommends that it

pass Second Reading in the form attached hereto as S.B. No. 529, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 498 Consumer Protection and Commerce on S.B. No. 558

The purpose of this bill is to empower the Commissioner of Securities to adopt rules which would permit the exemption of private or semi-public securities offerings.

Your Committee finds that the current exemption was modified substantially by the Securities and Exchange Commission which created uncertainty that required an Attorney General's opinion. Your Committee finds that in order to adequately keep up with the rapid changes in the securities industry and related areas, and to avoid further legal confusion, it would be beneficial to be able to conform Hawaii's laws through rule-making procedures rather than legislative means.

Your Committee received favorable testimony from various organizations including the Department of Commerce and Consumer Affairs and the Hawaii State Bar Association.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 558 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 499 Consumer Protection and Commerce on S.B. No. 29

The purpose of this bill was to require strict disclosure requirements for sales or acquisition agents who offer gifts or prizes in writing to prospective time share purchasers and condition the offer on the prospective purchasers' attendance at a time share sales presentation.

Under current law there is no requirement for disclosure of information regarding prizes or gifts offered, conditions of receipt and a full description of the item offered.

Your Committee finds that the bill would regulate the solicitation of sales involving time share interests through the mail by imposing specific disclosure requirements. When a written offer of a prize or gift is made to a prospective purchaser as part of a time share advertising or sales promotion plan, the written disclosure must contain a complete description of the prize or gift as well as its cash value, all terms or conditions to which it is subject, a statement that the purchaser must submit to a sales presentation, and a full description of the time share item being offered for sale along with the price of the least and most expensive item. The bill also requires that the written disclosure must be printed or written in a size equal to at least ten-point bold type.

Your Committee received testimony from the Office of Consumer Protection and the Department of Commerce and Consumer Affairs in support of the bill. However, it was noted that the reference to section 514E-11.1(7) in the bill may lead to confusion as to the size and type required in the written disclosure and a duplication of information which must be disclosed. Your Committee amended the bill by deleting the reference to Section 514E-11.1(7).

Your Committee further amended the bill to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 29, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 29, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 500 Ways and Means on S.B. No. 1465

The purpose of this bill is to increase the liquor tax, the tobacco tax, and the conveyance tax.

This bill would increase the excise tax imposed on the sale or use of liquor from 20 percent to 30 percent of the wholesale price of liquor. This bill would also increase the tax on tobacco products from 40 percent to 50 percent of the wholesale price. Lastly, this bill would increase the conveyance tax rate from 5 cents to 15 cents per \$100 value of the conveyance.

Your Committee heard much testimony in opposition to increasing these taxes; however, your Committee believes that such tax increases are necessary at the present time.

Your Committee has amended the bill by changing the proposed increase on the excise tax imposed on the sale or use of liquor to 22 percent and by changing the proposed increase of the tax on tobacco products to 44 percent of the wholesale price.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1465, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1465, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 501 (Majority) Ways and Means on S.B. No. 1464

The purposes of this bill are to (1) change the amount of the excise tax credit that may be claimed by taxpayers to an unspecified amount for the taxable years beginning after December 31, 1982 and ending before January 1, 1986; and (2) increase the general excise and use tax on certain activities by one-half percent for the period July 1, 1983 to June 30, 1985. The existing excise tax credit schedule and general excise and use tax rates would be imposed on January 1, 1985.

Your Committee finds that a temporary increase in these taxes is necessary to ameliorate general fund deficits projected for 1984 and 1985.

Your Committee has amended the bill by providing for a \$50 tax credit for each taxpayer for the period January 1, 1983 to December 31, 1984. This credit will be in addition to the present excise tax credits. Your Committee has also made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1464, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1464, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ajifu.
Senators Fernandes Salling, Kawasaki, Henderson and Soares did not concur.

SCRep. 502 (Majority) Ways and Means on S.B. No. 1461

The purpose of this bill is to amend the state constitution by repealing Article VII, section 6, which requires the legislature to provide a tax refund or credit to taxpayers whenever the state general fund balance at the close of each biennium exceeds five percent of general fund revenues for each of the two fiscal years. This amendment was made to the state constitution in 1978 in conjunction with an amendment limiting the amount of money which could be spent by the State. It was believed that as a result of such a spending limitation, excess revenues would be generated, and such excess revenues should be rightfully returned to the taxpayers.

However, in view of the cutback of federal funds appropriated by the United States Congress to the states and the uncertainty in predicting general revenues in this atmosphere of worldwide economic recession, the "disposition of excess revenues" requirement of the state constitution prevents the legislature from keeping extra dollars on hand to be used when it is faced with a budget deficit

year. Repeal of Article VII, section 6 of the state constitution would provide needed flexibility in managing the increasingly complex state budget.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1461, 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.
Senators Fernandes Salling, Kawasaki, Henderson and Soares did not concur.

SCRep. 503 Economic Development on S.B. No. 1077

The purpose of this bill is to require every public utility, and groups, organizations, trades, and corporations which are owned or controlled directly or indirectly by the same interests and which the utility contracts, leases or conducts transactions, to provide information that may be required by the public utilities commission.

Your Committee has heard favorable testimony from the public utilities commission and the division of consumer advocacy on the merits of allowing the commission to require that such information be provided when a utility contracts or leases with organizations or corporations controlled by the same interests. This bill provides the commission with the ability to assure that such transactions are fair and reasonable, and in the public's interest.

Your Committee, however, agrees with the testimony presented that requiring an impact statement with each general rate increase is cost prohibitive with no direct public benefit; the public utilities commission already requires similar information in the company's request docket. Therefore, the requirement has been deleted.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1077, as amended herein, and recommends that it pass Second Reading, in the form attached hereto, as S.B. No. 1077, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Machida.

SCRep. 504 Economic Development on S.B. No. 1069

The purpose of this bill is to increase the civil penalty from \$1,000 to \$10,000 per day as the maximum limit a public utility company can be subject to upon the violation of any order or rule of the public utilities commission. The bill further provides that any person violating the prohibition on "ex parte" communication shall be fined no less than \$100.

Your Committee believes that a larger fine will deter a utility company from pursuing illegal practices. Although no company has ever been subject to this penalty, your Committee believes the public must be adequately compensated if public utilities engage in illegal actions. Your Committee notes, however, that the amount set is a maximum penalty per day; the actual penalty will be set by the commission.

Your Committee has made non-substantive changes in this bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1069, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1069, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 505 Economic Development on S.B. No. 613

The purpose of this bill is to require each public utility company to carry adequate insurance, as determined by the public utilities commission, to protect the utilities from financial loss arising from natural disasters.

Currently, all public utility companies in Hawaii carry some form of disaster insurance. However, because insurance coverage is not required by law, the

companies cannot include it in their rate base.

Given the enormous financial obligations incurred as the result of natural disasters, your Committee believes mandatory insurance is the most prudent approach. The alternative approach, full capitalization of expenses after the disaster has occurred, is cost prohibitive. Your Committee further believes the utility structures to be insured, and the amount of insurance coverage to be required, is rightly within the responsibilities of the public utilities commission.

Your Committee received testimony from the utility companies in opposition to the proposed requirement of flood insurance coverage. Your Committee agrees that this requirement is cost prohibitive. Therefore, your Committee has amended the bill by deleting this requirement.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 613, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 506 Economic Development on S.B. No. 114

The purpose of this bill is to amend chapter 271, Hawaii Revised Statutes, by exempting from the motor carriers law: (1) persons engaged in activities which provide transportation services incidental to their business for a fee; (2) operators of motor vehicles carrying seven or less passengers; (3) operators of motor vehicles used in relocating set-up houses; and (4) persons transporting property to or from aircraft, which are added to the list of persons exempted from the law. The bill also allows motor carriers to change rates no more than ten percent above or below their established rate with the public utilities commission, without the commission's approval.

Your Committee heard testimony from the public utilities commission that certain operations should no longer be regulated by the Motor Carrier Law. In these transactions, transportation is incidental to the provision of goods and services. The commission's jurisdiction presents a problem to these operators who must now separate transportation cost from other services. By exempting such activities, transportation can be included within the total cost of the primary activity.

Also, the exemption of transportation of property by motor vehicle which has had a prior or subsequent movement by aircraft conforms with recent efforts in the deregulation of the airline industry. Under federal law, major operators of air cargo such as air freight forwarders have been exempted from the commission's authority. This bill would make clear that all transportation having subsequent or prior movements by aircraft will be exempt.

Your Committee also exempts the movement of houses; this contractual type of operation now requires a special license from the commission.

Your Committee, however, believes it is within the public interest to regulate the carriers with seven or less passengers. Testimony was received stating a preference to remain within the jurisdiction of the commission. Your Committee has amended the bill accordingly.

Amendments have also been made to allow the public utilities commission to monitor the effectiveness of the ten percent flexibility law, by requiring that such rate changes be filed with the commission no less than 24 hours prior to effective date. This will allow the commission the opportunity to determine if price flexibility is in the public's best interest. Other, nonsubstantive changes in grammar and style have also been made.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 114, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 114, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Machida.

SCRep. 507 Economic Development on S.B. No. 156

The purpose of this bill is to update the present language of section 26-18,

Hawaii Revised Statutes, which prescribes functions of the department of planning and economic development.

The present language specifies the functions of the department to be the promotion of agricultural products and the development of industry and tourism. However, your Committee finds that the existing language fails to include the functions of planning statewide activities, managing the development of energy and ocean resources, promoting and developing international commerce, and providing economic research and analysis, all of which are additional statutory responsibilities of the department.

Your Committee further finds that the functions described in the present law are outdated. The function of promoting agricultural products was transferred from the department of planning and economic development to the department of agriculture on August 1, 1982.

This bill also intends to update the manner in which appointments to the nine-member board of planning and economic development are made. Previously, the board was to be comprised of one member of the public from each senatorial district. However, the number of senatorial districts has since increased. The proposed revision requires at least one member from each county, and five members at large, to be appointed to the board.

Your Committee, however, considers a board unnecessary. The board meets only at its discretion, primarily to review and approve loans, even though such functions are carried out by the department. Moreover, most funds appropriated for the board are used to transport neighbor-island members to Oahu for meetings.

Your Committee received testimony from the department of planning and economic development in support of the housekeeping portion of the bill. The department also concurs with your Committee's recommendation to repeal the board of planning and economic development.

Your Committee has amended this bill by deleting the paragraph that establishes the board of planning and economic development.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 156, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 156, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 508 Economic Development on S.B. No. 137

The purpose of this bill is to amend section 171-60 (a) Hawaii Revised Statutes, by reinstating a portion of this subsection deleted inadvertently by Act 199, Session Laws of Hawaii 1981. The intent of Act 199 was to eliminate the twenty-four hour period the Legislature must wait before acting on a concurrent resolution approving a development project. However, the act also eliminated the standards and procedures to be followed by the board of land and natural resources in the disposition of public lands.

Your Committee has received favorable testimony from the department of land and natural resources in support of this bill.

Your Committee finds that this bill will provide necessary guidelines for the Department of Land and Natural Resources in leasing public lands and entering into development contracts with private developers.

Your Committee has amended the bill by reinstating the mandatory period between the distribution of the concurrent resolution and its floor adoption and increasing the time period to forty-eight hours to allow the legislators ample time to familiarize themselves with the resolution's contents.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 137, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 137, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson and Soares.

SCRep. 509 Economic Development on S.B. No. 1075

The purpose of this bill, as amended, is to consolidate the requirement for public hearings, and notices for these public hearings, into one section. These requirements are that: (1) reasonable notice in writing of such fact and of the subject or subjects to be investigated shall be made; (2) any notice shall plainly state rates, fares, charges, classifications, schedules, rules or practices proposed to be established, abandoned, modified, or departed from and the proposed effective date; and (3) any public hearing shall be advertised and held on the island on which the utility is situated.

Your Committee held hearings on S.B. Nos. 395, 1075, and 1080 which have provisions relating to requirements for public hearings and the content of such notices. S.B. No. 1075, as amended, consolidates these provisions. Also, your Committee has incorporated these provisions of Hawaii Revised Statutes subsection 269-16(b) into section 269-12 since they are both concerned with notice for public hearings.

Additionally, your Committee has also amended the bill to require that all rates, fares, classifications, charges, and rules of every public utility shall be published by the public utility in such manner as may be required by the commission.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1075, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1075, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Machida.

SCRep. 510 Economic Development on S.B. No. 195

The purpose of this bill is to allow the director of the department of commerce and consumer affairs to employ, on contract, persons with specialized expertise in utility and transportation matters, who shall not be subject to civil service requirements.

Your Committee finds that because of the department's large scope of responsibilities, it is impossible for its personnel to become experts on every subject. By giving the department the authority to hire experts, it can better serve the consumers of utility services.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 195, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 511 Economic Development on S.B. No. 526

The purpose of this bill is to amend Section 269-27.2 (c), Hawaii Revised Statutes, by including wind energy under the rate established for purchase of firm energy, as defined in rules set by the public utilities commission on February 18, 1982 for standards for small power production and cogeneration. These rules appear in Chapter 74 of Title 6, Administrative Rules, Department of Budget and Finance, entitled "Standards for Small Power Production and Cogeneration in the State of Hawaii."

Your Committee believes that the development of wind energy by the private sector will hasten the State's progress toward its goal of electrical self-sufficiency by the year 2005. However, your Committee finds the rate of return offered by the utilities for energy obtained by wind powered generators is minimal and unresponsive of the development of such industry.

Your Committee believes that the wind energy industry cannot continue to survive under such circumstances, and efforts must be made to encourage the development of this industry. By allowing wind energy to receive a rate similar to those established for firm energy, producers of wind energy are assured that

they will receive a fair rate of return on their investment.

Concerns have been raised about the cost that the consumer may have to pay as a result of this increased rate. However, your Committee received favorable testimony in support of this bill from the department of planning and economic development: "Because of the relatively small amount of wind energy in relation to the total supply and demand for electricity in Hawaii, the cost increase to individual consumers of implementing the proposed change would be very small."

Favorable testimony was also received from the Wind Power Association of Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 526 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 512 Economic Development on S.B. No. 756

The purpose of this bill is to amend section 201-3, Hawaii Revised Statutes, by allowing the department of planning and economic development to issue permits to film makers for the temporary occupancy and use of public lands and properties, for a fee to be determined by the department.

Commercial film making is a desirable industry for Hawaii. Not only is it environmentally compatible with the interests of this State, it promotes tourism by advertising the natural beauty and cultural diversity of Hawaii, and generates income and employment for the State's economy. According to the Producers Association of Hawaii, a basic network commercial shot in Hawaii expends more money in five days than do 1,300 American tourists (Hawaii Visitors Bureau 1981 figures). The average television episode expends more in five days than do 5,300 American tourists (Hawaii Film Office, 1982). The average feature film expends more in five days than do 16,700 American tourists. If Hawaii attracted just two percent of the film production expenditures in the United States, the State would have a \$300-million-a-year production industry. Through the multiplier effect, this sum would create millions of dollars more for our State's economy, create hundreds of new jobs, and provide ancillary benefits from advertising and promotion. Attracting Mainland and foreign film makers to Hawaii is, therefore, especially desirable.

Your Committee finds, however, that the current system of obtaining film making permits in Hawaii is a disincentive to producers and production companies wishing to practice film making in Hawaii. Many variables, such as undesirable weather conditions, can cause delays in, or warrant a relocation of, film making activities. This creates the problem of having to obtain new permits from the appropriate agencies. The permit process itself causes additional delays, which add to the cost of film production and advertising, and, in turn, increases the price of goods and services.

Your Committee believes that a centralized, single-permit system will simplify the permit process and thereby encourage the motion picture and television industry in Hawaii. Under this bill, the department of planning and economic development would be allowed to issue permits to film makers on a week-to-week basis, and on a day-to-day basis thereafter. Your Committee notes however, that the bill provides that prior to such issuance, the department shall coordinate with appropriate State agencies to ensure that other State interests, such as the protection of the environment, will be considered.

Your Committee further believes that the department of planning and economic development is the most appropriate State agency to coordinate the permit process. The Hawaii Film Office, which is within the department, is responsible for attracting and promoting the film making industry in Hawaii and, as such, can carry out the provisions of the permit service. This service will provide a clear signal to the worldwide filming industry that Hawaii is sincere in its efforts to attract new business.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 756 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Machida.

SCRep. 513 Economic Development on S.B. No. 1008

The purpose of this bill is to repeal chapter 221, Hawaii Revised Statutes, to eliminate the commission on the year 2000 and its functions.

The commission was established in 1970 to study the changes and effects produced by scientific and technological activity in this State. Since July 1, 1981, however, the commission has been inactive because no State funds were provided for its operations.

Your Committee finds that the purpose and functions of the commission are unnecessary. Possible impacts of science and technological activity are taken into account in the department's research and planning activities. In addition, the commission's futures study was completed prior to July 1, 1981, and the commission's only remaining staff person resigned prior to that date.

The department of planning and economic development submitted testimony to your Committee stating the repeal of the commission is warranted due to the lack of funding by the Legislature.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1008, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hagino.

SCRep. 514 Economic Development on S.B. No. 1082

The purpose of this bill is to provide for the transfer of petitions from the land use commission to appropriate county planning agencies if such petitions lack statewide interests and concerns. Additionally, the bill would increase the membership of the commission from 9 to 14 members by including the four county planning directors and the director of the department of planning and economic development as non-voting ex-officio members.

Your Committee believes that the State's land use regulatory process has become complex and burdensome, and inhibits effective utilization of our resources. With State and county agencies sharing responsibilities for land utilization, your Committee believes that efforts must be made to delineate the proper role between the counties and State in land use matters.

In this regard, your Committee believes that the land use commission must direct its attention to land use matters that involve State interests. A report entitled State Land Use Management Study prepared for the department of planning and economic development states that there is a need for a clear definition of the State's role in land use management. Under current practices, the commission utilizes a parcel-by-parcel review and makes decisions on the merits of each application. Your Committee believes that this approach prevents the commission from having a statewide perspective that was intended by the passage of legislation creating this body.

Your Committee agrees with the overall thrust of this report which recommends that State regulatory responsibilities should be oriented toward the protection of statewide interests, and when such interests are not present, the counties should play a more prominent role. Since the adoption of Hawaii's land use laws in 1963, Hawaii's counties have strengthened their capabilities in land use management and regulation. Each county has created agencies responsible for the regulation and use of land, and all have adopted general plans to guide growth and development. This places the counties in a better position to assess the merits of land use changes in their respective counties.

As a result, your Committee endorses a regulatory process offered by this study which limits the role of the land use commission to petitions that involve statewide interests and concerns. Should any petition lack such interests, the commission would transfer such petition to the appropriate county with jurisdiction. The commission would adopt rules and regulations defining the conditions when a petition involves statewide concerns and interests.

Your Committee believes that this new regulatory scheme will give the land use

commission a stronger role in identifying State interests in land use, and also will provide the counties with more authority on land matters affecting their area. Your Committee further believes that the bill's provisions placing time requirements on the completion of review of petitions by the commission or the counties will avoid delays that have often been associated with Hawaii's land use regulation process.

Your Committee has deleted the provisions that provide non-voting ex-officio membership to county planning directors and the director of the department of planning and economic development on the land use commission. Your Committee is not convinced that the expansion of membership will increase the effectiveness of the commission.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1082, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1082, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 515 Economic Development on S.B. No. 131

The purpose of this bill is to authorize the board of land and natural resources to prevent dam failure.

Your Committee finds that the State is one of the few that does not have a dam safety statute. The importance of public safety demands that the State have a dam safety program to prevent the loss of life and property.

Your Committee agrees with testimony received on the bill that the proposed law is too broad in application. The proposed law would include aquaculture ponds and lakes constructed in golf courses. Therefore, your Committee has amended this bill to provide that the dams covered under the law shall be twenty-five, rather than six, feet or more in height, and have the capacity of fifty, rather than fifteen, or more acre-feet of water. These standards have been found by the U.S. Army Corps of Engineers to apply to 123 dams, of which 54 have been classified as hazardous. Passage of this bill would provide for the repair of these dams.

Your Committee has also made non-substantive changes to this bill.

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

Signed by all members of the Committee except Senators Aki and Hagino.

SCRep. 516 Economic Development on S.B. No. 164

The purpose of this bill is to amend chapter 269, Hawaii Revised Statutes, to clearly and specifically authorize the public utilities commission to promulgate rules, appoint hearing officers and hire attorneys as may be necessary.

Presently, the commission is authorized to make and amend rules respecting the procedure before it, not specifically including the governing of a utility company's operation. It does not have the present authority to appoint hearings officers, who could represent the commission in any proceeding before it other than a proceeding involving rates or any other matters covered in the tariffs filed by the public utilities. The option of appointing hearings officers to represent the commission would allow the commissioners some relief from attendance at proceedings not related to rates or tariffs, and should thereby alleviate some of the commission's backlog of pending cases. Furthermore, the commission is authorized to hire only one attorney. Each decision and order must be reviewed by legal counsel before it can be issued; last year over 400 decision and orders were issued, a tremendous load for one part-time attorney. Allowing the commission to hire additional legal counsel would provide for a more speedy and efficient legal review.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 164, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as S.B. No. 164, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Machida.

SCRep. 517 Economic Development on S.B. No. 907

The purpose of this bill is to allow the land use commission to charge a reasonable fee for the filing of petitions, and to provide a penalty for parties who fail to appear at hearings.

Your Committee finds that providing for fees and penalties will help defray the operating costs and encourage the attendance of petitioners to hearings before the land use commission.

Your Committee has received testimony from the land use commission in support of this bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 907, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb and Machida.

SCRep. 518 Economic Development on S.B. No. 1072

The purpose of this bill is to further define unlawful ex parte communications. Ex parte communications include any communication, written or oral, between parties involved in an ongoing hearing or proceeding about anything related, whether directly or indirectly, to the ongoing hearing or proceeding. The purpose of the ex parte communications law is to prevent undue influence from being applied on the public utilities commission during decision-making.

Your Committee finds that the present law on ex parte communications is not explicit in definition, does not specify allowable ex parte communications, and does not provide for actions that can be taken in lieu of judicial action when inadvertent ex parte communications occur. Thus, your Committee agrees with this bill, which defines ex parte communications; and exempts (1) sole-person parties from discussing authorized subjects with a commissioner, (2) discussions about the procedural status of a proceeding, (3) matters which are agreed upon beforehand in writing to be discussed by all parties, (4) communications with news media to inform the public, (5) discussions on practices or procedures between counsel and commissioners, (6) communications made after adequate notice has been given to all interested parties, and (7) written disclosures made to all interested parties after an unlawful ex parte communication occurs.

Your Committee has received generally favorable testimony regarding this bill, except that some feel that further definition of the law is unnecessary. Although an explanation of the ex parte communications rule exists in the public utilities commission's General Order No. 1, your Committee believes this rule should be delineated in the law. Violation of the rule can jeopardize decisions by the commission and result in adverse effects.

Your Committee has amended this bill to include subsection 269-3 (c), presently in the law, which exempts internal commissioner discussion on contested cases or hearings. This amendment will ensure that commissioners can expediently carry out their decision-making without hindrance.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1072, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1072, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 519 Economic Development on S.B. No. 903

The purpose of this bill is to allow agricultural and conservation district lands and forest and reserve zones to be used for geothermal energy production. In addition, the bills will allow the initial explorer to be awarded the mining lease, even if he is not the highest bidder, if his bid plus his exploration costs are

reasonably equivalent or reasonably comparable to the highest bid at public auction.

Your Committee heard testimony from the departments of planning and economic development and land and natural resources. Testimony was also received from members of the geothermal industry and members of the public.

In its review of this matter, your Committee believes that the more prudent approach to permitting geothermal production on State lands is for the State to designate appropriate geothermal areas. Under this approach, the State would not only identify areas of high geothermal potential but also areas of the lowest overall environmental impact.

This approach would require the board of land and natural resources to systematically review all potential geothermal resource areas for its geothermal potential as well as the possible effects on the surrounding environment.

Your Committee has also seriously examined the bill's proposal that would allow the initial explorer to apply his exploration costs to his bid at public auction. In this regard, your Committee concurs with the thrust of the department of land and natural resources' testimony which argues that a more equitable solution would be to require the person with the highest bid to reimburse the explorer for all reasonable costs. Accordingly, the bill has been amended to reflect this position.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 903, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 903, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 520 (Majority) Economic Development on S.B. No. 1080

The purpose of this bill is to extend the public utilities commission's decision-making period from nine to twelve months, once the application is filed, and to require the utility to better justify their rate increases.

Presently, the standard of preponderance of evidence is used in the commission's decisions. Because of the magnitude and the public impact of each rate increase, your Committee believes it is in the public's best interest that a higher standard, that of clear and convincing evidence, be utilized. Your Committee finds that the commission uses the standard of clear and convincing evidence with regard to water carrier rate-making. The application of this standard to other utilities provides the commission with a consistent standard of review.

Your Committee finds that of fourteen major rate-making cases which the commission has heard since 1978, the statutory nine-month deadline to make a decision and order was exceeded eleven times. Major reasons the commission failed to render a decision within the prescribed time limit include inadequate staffing and the increasing complexity of issues that must be resolved in rate-increase applications submitted by utility companies.

Your Committee believes that increasing the decision-making period to twelve months provides the commission adequate time to complete a review of an application. However, because the utility companies' operations are contingent upon the commission's ability to render decisions in a timely manner, your Committee has amended this bill to allow the commission to determine a temporary rate increase, pending a decision, based on the applicant's financial need or probable entitlement.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1080, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1080, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Carpenter and Hagino did not concur.

SCRep. 521 Consumer Protection and Commerce on S.B. No. 649

The purpose of this bill is to remove the statutory distinction between "osteopathic physician" and "osteopathic physician and surgeon".

For sixty years the state's Board of Osteopathic Examiners has been issuing two kinds of licenses: one for "osteopathic physicians" and one for "osteopathic physicians and surgeons."

Based on expert testimony from the Board of Osteopathic Examiners, your Committee finds that this distinction has resulted in needless confusion because all graduates of the fifteen osteopathic colleges in America are certified as both physicians and surgeons and are licensed as such in all the other 49 states.

This bill removes the term "osteopathic physician" where it appears in the Hawaii Revised Statutes, and substitutes it with the correct title "osteopathic physician and surgeon."

Your Committee has amended the bill by deleting references to "good moral character", on page 6, line 14 and page 8, line 6, and substituting the words "has a reputation for competence, trustworthiness and ability." Your Committee has further amended the bill by correcting typographical errors and making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 649, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 649, S.D.2.

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.

SCRep. 522 Consumer Protection and Commerce on S.B. No. 285

The purpose of this bill is to extend the statute of limitations currently provided to claimants under the Hawaii No-Fault Law.

Presently, individuals receiving no-fault benefits as a result of a motor vehicle accident have up to two years from the date of the last no-fault payment within which to file a tort action. No-fault benefits, however, are paid secondarily and net of benefits received either from the social security laws, workers' compensation laws or public assistance laws. Thus, individuals who are not receiving no-fault benefits but who are receiving either social security, workers' compensation or public assistance benefits are discriminated against because they may be required to file their tort action within two years after the date of the motor vehicle accident rather than two years from the last no-fault payment. Individuals involved in the same motor vehicle accident, therefore, may have different deadlines if some of them are receiving no-fault benefits while others are receiving social security, workers' compensation or public assistance benefits.

This bill amends Section 294-36(b), Hawaii Revised Statutes, to end this discriminatory provision by providing the same deadline to all individuals regardless of the type of benefits they may be receiving.

This bill would also allow persons who are involved in disputes over no-fault insurance contracts to file lawsuits for up to two years after the final judgment in a tort action arising out of a motor vehicle accident.

Presently, individuals that have insurance contract disputes must file their lawsuits within two years of a specified event, that is: (a) after the last payment of no-fault benefits or optional additional benefits; (b) from the date of the motor vehicle accident; or (c) after the entry of a final order in arbitration. No provision, however, is made for the situation where a dispute arises on the no-fault contract after entry of a final judgment in a tort claim which is more than two years from the auto accident or more than two years from the last no-fault payment. No matter how meritorious the claim on the no-fault contract may be, it would be barred by the two-year statute of limitations.

This bill amends Section 294-36(a), Hawaii Revised Statutes, to correct this problem by providing additional time of up to two years after the entry of final judgment in a tort action to file a lawsuit.

Your Committee heard testimony that a typical situation in which Section 294-36(a) may unjustly preclude a claim is when an insurer refuses to settle a claim within policy limit and a subsequent trial results in an award against the insured which exceeds the policy limits. In such cases the insured may have a claim against his or her insurer for bad faith in failing to settle the claim and

thereby subjecting the insured to an award in an amount beyond his insurance coverage.

If the events presently listed in Section 294-36(a) have occurred more than two years before conclusion of the trial which resulted in the damages assessed against the insured, the insured would be precluded from bringing a bad faith action against the insurer.

Because the question of whether or not the insurer failed to settle the claim in bad faith is dependent on the outcome of the litigation involving the motor vehicle accident on which the claim is based, the insured should have the benefit of a two-year statute of limitations starting from the date the litigation is concluded.

Your Committee has amended the proposed changes to Section 294-36(a) to clarify that the extended statute of limitation is limited to actions for insurer bad faith.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 285, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 285, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Soares.

SCRep. 523 Consumer Protection and Commerce on S.B. No. 1288

The purpose of this bill was to permit the Boxing Commission to take immediate, temporary, disciplinary action for violations of statutes or commission rules subject to the licensee's right to request a hearing in accordance with Chapter 91, Hawaii Revised Statutes.

At present, the Commission legally may not take any form of immediate disciplinary action, thus allowing a violator to continue unscathed in the sport of boxing until the results of a hearing are established. The time span involved in the hearing process precludes any meaningful, immediate, disciplinary action when it is most needed and appropriate.

This bill would allow the Boxing Commission to take immediate, temporary, disciplinary action for violations. Enactment of this measure would also permit immediate Commission action on obvious or technical violations such as being overweight; being late for weigh-ins or bouts; wearing improper trunks; and coaching from the corners. This would also be subject to a licensee's right to request a formal hearing on the violations.

Your Committee has amended this bill by making non-substantive changes for the purpose of clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1288, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1288, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Soares.

SCRep. 524 Consumer Protection and Commerce on S.B. No. 808

The purpose of this bill is to allow canceled checks or drafts to serve as customer receipts for loan payments.

Current law requires a loan company to provide receipts to borrowers as evidence of payment made by any means.

This bill would permit lenders to omit receipts for loan payments when such payments are made by check or draft. Customers would still have copies of their cancelled checks or drafts for their records, but the lenders cost of servicing the loan would be lessened, to the benefit of all concerned.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 808 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Soares.

SCRep. 525 Consumer Protection and Commerce on S.B. No. 1338

The purpose of this bill was to address concerns expressed by the Legislative Auditor's Sunset Evaluation Report on the Real Estate Commission.

Section 1 of the bill would delete the good character requirement for issuance of a real estate license.

Section 2 would authorize the Commission to establish deadlines for submission of license applications. Since 1974, the Commission has had rules establishing deadlines for submission of license and examination applications. The current filing deadline in the rules is ninety days from the date of examination.

Section 3 would delete the requirement that an applicant for the written examination be a legal resident of the state.

Section 4 would authorize the Commission to impose other conditions for restoration of a license as it may deem necessary. As a measure to insure the competency of licensees, your Committee agrees that reexamination or education as a condition to reinstatement helps ensure that individuals who have forfeited their license have retained at least entry level skills before being reinstated.

Sections 5 and 6 would substitute new ceiling amounts for recovery from the Real Estate Recovery Fund. Your Committee heard testimony concerning retroactive application of these new limits and intends that the new limits will not apply retroactively.

Your Committee has amended the bill by:

- (1) Maintaining a form of residency requirement, leaving in the original language in Section 467-9.5(1), Hawaii Revised Statutes.

Your Committee received testimony from the Real Estate Commission in favor of maintaining the residency requirement for examination qualification. The Commission stated that it is not imposing an unconstitutional durational requirement but rather is requiring that an applicant have a local residence. The Commission is drafting rules to implement the residency test proposed by the Attorney General's Opinion dated June 16, 1981 to the Department of Commerce and Consumer Affairs. Your Committee finds that a residency requirement is important, but concurs with the Commission that the criteria therefor should be established in the form of rules rather than by statute.

- (2) Clarifying the Commission's authority to establish experience guidelines as prerequisite for taking the written examination.

Your Committee finds the need to clarify the Commission's authority to review a salesman's practical experience and to establish criteria for evaluating a salesman's actual or real experience in real estate for the purpose of determining eligibility for the written examination. The Commission testified that two years practical experience is necessary but that the present statute is not clear as to what measurement other than length of time is appropriate. This proposal would grant to the Commission the right to develop such criteria.

- (3) Increasing the minimum balance in the recovery fund and requiring a special assessment of \$25 for all licensees.

Your Committee finds the need to increase the minimum balance in the Real Estate Recovery Fund from \$150,000 to \$500,000, and to require the Department of Commerce and Consumer Affairs to make a special assessment at any time the balance goes below that amount. Your Committee also finds the need to authorize the Department to make a special assessment of \$25.00 per licensee when the balance of the fund dips below the \$500,000 level.

Your Committee on Consumer Protection and Commerce is in accord with the

intent and purpose of S.B. No. 1338, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1338, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 526 (Majority) Consumer Protection and Commerce on S.B. No. 186

The purpose of this bill was to strengthen the statutes relating to private investigators and guards by amending certain key definitions; providing uniform procedures and qualifications for licensing security services, officers and guards; and by requiring criminal and psychiatric checks on all license applicants.

Specific proposals, by Hawaii Revised Statutes section numbers, are as follows:

§463-1 would redefine "detective" or "investigator" as a licensee who is qualified to obtain confidential information. "Guard" would be redefined as a licensee responsible for safekeeping client properties, other persons, and for attendant observation and reporting in connection therewith. A new definition would be added, defining "detective or guard agency" as a corporation partnership or association engaged in the private detective or guard business.

§463-5 would raise Board of Detectives and Guards licensing fee from \$25 to \$37.50 a year.

§463-6 and §463-8 would provide that applicants for private detective and guard licenses may not have been convicted of a crime and jailed within the past twenty years, and that employees of private detective or guard companies may not have been convicted or jailed within the past ten years. Your Committee has amended these proposals, and similar language in §463-9 regarding license application forms, by deleting references to jail and time spans.

§463-9, relating to the application form for licensing, has been amended by your Committee to provide 1) that the form contain the applicant's place of birth (which was originally deleted) and information regarding an applicant's psychiatric history, if any; 2) that the Board investigate the applicant's background, character, etc. and request criminal records from competent jurisdictions; and 3) that the police shall be required to furnish criminal history records pertaining to license applicants.

Your Committee has further amended the bill by adding a new section entitled "Provisions Severable", which would provide that a court's invalidation of any provision of chapter 463 does not disturb other provisions not affected thereby.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 186, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Uwaine and Soares. Senator Chang did not concur.

SCRep. 527 Consumer Protection and Commerce on S.B. No. 800

The purposes of this bill were to amend Chapter 672, Hawaii Revised Statutes, to:

- 1) Allow claims against corporations employing design professionals;
- 2) Allow the chairman to terminate the claims hearing upon the mutual consent of the parties;
- 3) Allow other parties against whom claims have been made to attend the panel hearings;
- 4) Add a new section providing for retroactive application of the statute.

Your Committee believes that the current law requires clarification to allow claims against corporations employing design professionals. This bill would allow claims to be filed against corporations as well as the design professional individually.

Your Committee finds that the parties to any claims hearing should have the option to waive the claims hearing by mutual consent and to litigate any claims pursuant to Section 672-8, Hawaii Revised Statutes. Allowing the chairman to terminate the panel hearing upon the mutual consent of the parties when the hearing would not be beneficial to the parties or when the hearing is an improper forum for review would be in the best interests of the parties.

Your Committee further finds that allowing other parties against whom a claim is made to attend panel hearings is in the interest of fairness to all parties involved.

There has been some question as to whether or not the provisions of Chapter 672 apply to claims which arose prior to the effective date of the Chapter but on which no legal action had been initiated as of the effective date. This bill makes it clear that such claims are covered by Chapter 672.

Your Committee has amended the bill by making clarifying language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 800, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 528 Consumer Protection and Commerce on S.B. No. 782

The purpose of this bill was to set forth an industry-wide reorganization plan that would shift the insurance of industrial loan companies from the Thrift Guaranty Corporation of Hawaii to the Federal Deposit Insurance Corporation (FDIC).

Currently, each qualifying thrift account is insured up to \$10,000 by the Thrift Guaranty Corporation of Hawaii. All industrial loan companies licensed under Chapters 408, are required to be a member of the Thrift Guaranty Corporation, which was established to assist in stabilizing the industrial loan industry. The guaranty fund was initially established through a \$20,000,000 loan from the State to be repaid over a twenty year period, by the Thrift Guaranty Corporation.

The Director of the Department of Commerce and Consumer Affairs has assured your Committee that repayment of this loan to the State will not be jeopardized by the enactment of this bill.

Your Committee finds that this bill will permit industrial loan companies to become members of the FDIC and thus will further strengthen the industry by permitting them to insure qualifying thrift deposit accounts up to \$100,000. The FDIC's insurance fund has currently funds in excess of thirteen billion dollars.

Your Committee has adopted the recommendations of the Department of Commerce and Consumer Affairs by amending the bill to eliminate amendments to the voting procedure.

Further, your Committee has amended the bill by making technical nonsubstantive changes for the purposes of clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 782, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 782, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 529 Consumer Protection and Commerce on S.B. No. 176

The purpose of this bill was to clarify the experience requirement for motion picture operators and to add minimum work or experience qualifications for maintenance electricians.

Presently, motion picture operator licensing applicants are required to have one year of experience. Testimony from the Board of Electricians and Plumbers indicated problems with applicants trying to circumvent the intent of the Board by fulfilling this requirement with one year of part-time work.

This bill adds the word "full-time" to the experience requirement to clarify the intent of the Board.

Presently, an applicant for a maintenance electrician designation need only be eighteen years of age. Testimony from the Board of Electricians and Plumbers indicates that a minimum training or schooling requirement is necessary to insure an applicant's working knowledge of the electrical trade.

The bill requires maintenance electrician applicants to have at least one year of experience in performing electrical maintenance work or proof of two years of schooling in the electrical trade.

Finally, the bill repeals Section 448-14, Hawaii Revised Statutes, relating to county licenses for electricians, plumbers, and motion picture operators. This section is anachronistic and has served its purpose of transferring the regulatory functions over electricians, plumbers, and motion picture operators from the counties to the State.

Your Committee has amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 176, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 176, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Yamasaki, Henderson and Soares.

SCRep. 530 (Majority) Consumer Protection and Commerce on S.B. No. 1014

The purpose of this bill was to require that an injured person making a claim for no-fault benefits submit to a medical examination by the no-fault insurer's physician or be subject to suspension and non-payment of benefits for the period during which the refusal continues.

Under present law, there are no statutory provisions allowing the no-fault insurer to have an independent medical examination conducted by a qualified physician or surgeon on a no-fault claimant to determine whether no-fault benefits should be paid. Recent court decisions have denied the right of the no-fault insurer to have an independent medical examination.

Your Committee received testimony from the insurance division of the Department of Commerce and Consumer Affairs stating that the ability of an insurer to examine a claimant is an important and necessary safeguard against the filing of fraudulent claims.

Your Committee adopted the recommendations of the Department and amended the bill as follows:

1. Deleted the language on page 1, lines 12 through 16, that permits the insurer's physician the right to visit the injured person at all reasonable times and under all reasonable conditions. The purpose of this amendment is to prevent a claimant from being subject to repeated home visits by the insurer's physician.
2. Deleted the sentence on page 2, lines 3 and 4, that "No-fault benefits shall not be payable for the period during which the refusal or obstruction continues". Your Committee finds that while suspension of benefits for the period of non-compliance is an appropriate penalty for refusing to undergo an examination, the denial of payments which accrue during the period of non-compliance is excessive and serves no legitimate purpose.
3. Made language changes to delete references to gender.

Your Committee on Consumer Protection and Commerce is in accord with the

intent and purpose of S.B. No. 1014, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1014, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Henderson and Soares.

Senator Cayetano did not concur.

SCRep. 531 (Majority) Consumer Protection and Commerce on S.B. No. 809

The purpose of this bill was to allow industrial loan companies to charge prepayment penalties on real estate loans written for five years or more.

Testimony by the Hawaii Consumer Finance Association indicated that institution of the prepayment penalty would partially compensate industrial loan companies for interest losses caused by prepayment and would establish parity for such companies with banks, savings and loan associations, and insurance companies, all of which are currently entitled to charge such penalties.

Under this bill, industrial loan companies could impose a prepayment charge equal to six months interest on any amount in excess of twenty percent of the original principal prepaid for any reason in a twelve-month period, provided that 1) the amounts are prepaid within five years of the date of contract; 2) the loans are primarily secured by real property; and 3) the prepayment charge is not applicable to adjustable or variable rate loans and open-end loans.

The Department of Commerce and Consumer Affairs also testified in support of the bill with the recommendation that the prepayment charges be applied only to voluntary prepayments. Accordingly, your Committee has amended the bill by deleting the words "for any reason" from Section 9 and adding language to the effect that the prepayment charge shall apply only to voluntary prepayments and not to prepayments arising out of acceleration clauses in mortgage loan contracts.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 809, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 809, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

Senator Cayetano did not concur.

SCRep. 532 Consumer Protection and Commerce on S.B. No. 1040

The purpose of this bill was to confirm the power of industrial loan companies to engage in leasing of tangible personal property and other tangible property.

Your Committee finds that industrial loan companies should be authorized to engage in leasing of personal property as leasing has become an increasingly important method of financing personal property such as vehicles, equipment, machinery, and other items.

Your Committee is informed that some industrial companies are currently engaged in leasing of tangible property pursuant to general corporate powers as provided for in section 408-14(a), Hawaii Revised Statutes. However, the power to lease is not specifically provided for in the section.

This bill statutorily expresses the power of industrial loan companies to engage in leasing of tangible personal property.

Your Committee amended the bill to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1040, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1040, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 533 Consumer Protection and Commerce on S.B. No. 14

The purpose of this bill is to repeal the \$4,000 maximum limit on the amount of group life insurance offered to credit union members by the credit union.

Credit unions have provided life insurance as a service to their members since 1937 and consider it to be an incentive to the maintenance of savings programs. Currently in Hawaii, the insurance provided for credit union members is based on the amount of eligible savings a member has in their account up to \$4,000. Removal of the limit would encourage savings by enabling credit unions to offer a higher level of insurance in conjunction with the current fiscal needs of their members.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of this bill, stating that it would afford greater flexibility to credit unions in providing life insurance coverage to their members which may be more in line with present day needs. Further, the CUNA Mutual Insurance Society testified that at present, forty-six states have no limits on the dollar amount of group life saving insurance that may be written, and the decision on the maximum amount of insurance is determined by the buyer and seller. Hawaii has the lowest limit of the few states with limits. This bill will remove the limit.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 14 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 534 Consumer Protection and Commerce on S.B. No. 53

The purpose of this bill was to specify the conditions under which a corporation may issue distributions to its shareholders from the corporation's capital surplus.

This bill amends Chapter 416, Hawaii Revised Statutes, by adding a new section which describes conditions under which a corporation may distribute capital surplus to its shareholders.

Your Committee has amended the bill by adding two additional restrictive conditions to the conditions for capital surplus distribution, and by providing definitions for the terms "capital surplus" and "insolvent".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 53, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 53, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Uwaine, Henderson and Soares.

SCRep. 535 Consumer Protection and Commerce on S.B. No. 193

The purpose of this bill is to remove the requirement of an annual report and the positions of secretary and treasurer from the board of veterinary examiners, to impose a more realistic license application deadline, to remove the requirement for an oral, as well as written examination, and to delete references to gender and indefinite modifiers.

Presently, Section 471-8, Hawaii Revised Statutes, requires applicants for veterinary licenses to file an application for examination and requires the examination to consist of oral, as well as written questions. This bill changes the deadline for filing applications to at least sixty days prior to the scheduled examination and does away with the requirement for oral questions.

Under current law, the board of veterinary examiners is required to submit an annual report to the governor. A memorandum submitted by the deputy director of commerce and consumer affairs indicates that of the thirty boards and commissions placed within the department of commerce and consumer affairs, fifteen are required by law to submit annual reports to the governor or the legislature. A copy of the memorandum is attached hereto. Testimony submitted by the Department of Commerce and Consumer Affairs assures your committee that

any information contained in an annual report is readily available to the governor and the legislature upon request.

Your Committee has amended section 3 of the bill by deleting from page 5, line 4 (page 4, line 21 of the bill as amended), the words "of good moral character", which it finds to be ambiguous, and adding the words "has a reputation for competence".

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 193, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 193, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine, Henderson and Soares.

SCRep. 536 Consumer Protection and Commerce S.B. No. 769

The purpose of this bill was to allow industrial loan companies to assess an appraisal fee.

Currently, an industrial loan company is permitted to collect an appraisal fee from the borrower which is actually paid to third parties with no portion of the fees actually benefitting the industrial loan company.

This bill will permit an industrial loan company to assess a fee for an appraisal and utilize appraisers who are either independent or connected with the company. This practice is currently permitted by banks and savings and loan associations.

Your Committee amended the bill by adding provisions requiring the appraiser to have certain qualifications and by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 769, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 769, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Uwaine, Henderson and Soares.

SCRep. 537 Consumer Protection and Commerce on S.B. No. 787

The purpose of this bill was to strengthen law on horizontal property regimes by making numerous amendments to Chapter 514A, Hawaii Revised Statutes.

This bill does the following:

- (1) "Apartment", previously defined as property intended for any type of use with an exit to the street, would now be defined as the portion of a condominium which is separately deeded or leased to individual owners.
- (2) "Apartment owner" would now be the owner of an apartment, provided that a lessee of an apartment registered under Chapter 501 or recorded under Chapter 502, Hawaii Revised Statutes, shall be the owner for voting purposes.
- (3) An instrument executed by the officers of the association of apartment owners shall be the only document required to record amendments to declarations or bylaws for projects registered with the Land Court.
- (4) Section 514A-82, "Contents of Bylaws", would be changed to specify staggered terms for the board of directors, provide late charges for delinquent payment of common expenses, require board meetings to be conducted under the most current edition of Roberts Rules of Order, and provide penalties for violation of the declaration or the bylaws.
- (5) Apartment owners who wish to change their designated parking stalls need

only get the approval of owners whose stalls are affected, the lessor and the mortgagee.

- (6) Requires tenants, employees of an owner and other persons using the property to comply with the bylaws and administrative rules.
- (7) Allows work to be done on the property with the consent of the percentage of apartment owners required to amend the declaration rather than all owners.
- (8) Allows the association lien for unpaid common expenses, including expenses, costs, and fees incurred in collecting delinquent assessments, to have priority over all liens except taxes, government assessments and mortgages of record recorded prior to the date of recordation of an instrument evidencing the association's lien.

Your Committee has amended the bill by making the following changes to the following paragraphs of Section 514A-82, "Contents of Bylaws":

1. (13) Two representatives from the same family or corporate entity would be allowed to serve on boards of nine members or more, provided they own at least five apartments;
2. (16) All board meetings would be open to members of the Association;
3. (18) Continuing proxies would be disallowed;
4. (19) A list of association members would be available to any member for a fee; and
5. (24) Minutes and financial statements of boards and associations of owners would include the recorded vote of each member.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 787, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 787, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Carpenter, Holt, B. Kobayashi and Yamasaki.

SCRep. 538 Consumer Protection and Commerce on S.B. No. 515

The purpose of this bill is to reorganize and refine the statutory provisions which cover unfair and deceptive methods of competition in the insurance industry.

The statutory provisions relating to the regulation of trade practices in the business of insurance were originally adopted in 1955. While the original premises supporting the statutes that cover insurance competition remain valid, your Committee feels there is a need to reorganize and refine the law in order to further clarify these statutes.

This bill amends the current statutes by incorporating the model act relating to unfair methods of competition and unfair and deceptive acts and practices in the insurance business into the statutes. This model act was adopted by the National Association of Insurance Commissioners in 1977 and was revised in 1979.

The highlights of this bill include: (1) the integration of the Unfair Claims Settlement Practices Act into the body of the Unfair Practices Act; (2) the expansion of defined violations under Section 431-643, Hawaii Revised Statutes; (3) a strengthening of the penalties available for defined violations; and (4) the formulation of penalties for violations of cease and desist orders. Your Committee believes that these measures will permit a more efficient and effective regulation of trade practices in the business of insurance.

Your Committee amended the bill by defining the violations which shall constitute a rebuttable presumption of a general business practice.

Your Committee also amended this bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 515, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 515, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.

SCRep. 539 (Majority) Consumer Protection and Commerce on S.B. No. 326

The purpose of this bill was to amend the definition of "transient vacation rentals" to mean dwelling or lodging units that are rented two or more times over the course of one calendar year, with the duration of occupancy less than sixty-two days for the occupant.

The intent of this bill is to assure that dwelling units in residential neighborhoods, and not only in multi-unit buildings, are covered under the provisions of the definition contained in Section 514E-1.

Your Committee has amended the bill to provide that this definition applies to dwelling units rented more than two times in a calendar year. The provision with regard to the "transient" status of an occupant has been re-inserted into the definition.

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

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.
Senator Chang did not concur.

SCRep. 540 Consumer Protection and Commerce on S.B. No. 451

The purpose of this bill was to preclude the employment or retention of a single managing agent to oversee both residential and commercial use of units, in a mixed use condominium project.

Your Committee received testimony opposing the bill on the grounds that it would limit the authority of project boards of directors, complicate the administration of projects, and may contribute to an increase in operating expenses.

Your Committee finds that the term "commercial use" requires further consideration in order to address the interests of the the owners of owner occupied units, and the owners of units placed in a rental pool for non-owner occupancy. In condominium projects having these two categories of units, your Committee perceives a need to insure that the positions of the owners of each kind of unit be recognized. The rental pool concept, wherein units are rented for varying periods of time, is a different kind of use from that enjoyed by the resident owner. It usually is characterized by a rapid turnover of occupants and a higher level of usage of the project's common elements.

Because of the complex issues involved in the resolution of problems involving commercial use and residential use of condominium units, your Committee has utilized the bill to address the problem of conflicts between residential rental units and owner occupied units in a project.

To this end, your Committee amended the bill to provide for two managers in condominiums having both owner occupied units and rentals, in projects having fifty units or more and in which at least twenty-five percent of the units are made available for residential rental occupancy. In order to provide for choice by owners, the bill allows a majority of owners or the required percentage of owners necessary to amend the bylaws to choose to have one managing agent.

Your Committee believes that the amendment is necessary as a single managing agent may be placed in a conflict of interest in choosing between the often different needs and desires of owner occupants and investor owners.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 451, as amended herein, and recommends that it

pass Second Reading in the form attached hereto as S.B. No. 451, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.

SCRep. 541 Consumer Protection and Commerce on S.B. No. 450

The purpose of this bill was to prohibit resident managers or managing agents from voting or casting proxies at any board meeting on any issue in which the manager or agent has a conflict of interest.

Currently the statute only restricts members of the Board of Directors from voting or casting proxies if there is a conflict of interest. This bill would extend the prohibition to resident managers and managing agents.

Your Committee heard supporting testimony from the Hawaii Association of Realtors and the Hawaii Council of Associations of Apartment Owners in favor of the bill.

Your Committee finds that precluding resident managers or managing agents as well as directors from voting or casting any proxy vote when there is a conflict of interest is essential to fair management of condominiums.

Your Committee has amended the bill by making a conforming amendment to Section 514A-18 and by making nonsubstantive changes for purposes of clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 450, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 450, S.D. 1., and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.

SCRep. 542 Consumer Protection and Commerce on S.B. No. 42

The purpose of this bill was to extend the time for repeal of the Elevator Mechanics Licensing Board until December 31, 1989.

Currently, the Elevator Mechanics Licensing Board is scheduled to be sunsetted as of December 31, 1983.

In Report 83-1, January 1983, the Legislative Auditor recommended that the Board be allowed to expire as scheduled, citing its relative inactivity over the past five years as a major reason. However, a preponderance of testimony presented to your Committee indicates that there is considerable disagreement as to whether sunseting would actually be in the best interest of the public and the industry.

The Elevator Mechanics Licensing Board and the Department of Labor and Industrial Relations both stressed the need to retain the Board's licensing functions, either by continuing the Board or by transferring the licensing functions to the Department of Commerce and Consumer Affairs. Other testimonies by Hawaiian Pacific Elevator Corporation, Allied Elevator Corporation, U.S. Elevator Corporation also recommended retention of the Board and pointed out that its apparent inactivity indicates that the law is effective in minimizing complaints and encourages a high standard of competency within the industry.

Your Committee finds, after careful consideration, that there is reason to believe that the Board may yet serve a useful purpose, if only to continue the licensing function. Therefore, your Committee has amended the bill by extending the Board but, for an additional two years rather than the original six, with the understanding that the extension will serve as a period for further consideration of eventual repeal or continuation. If at the end of the two year extension the Board has not demonstrated an adequate measure of usefulness, your Committee recommends that it be repealed and the licensing functions transferred to the Department of Commerce and Consumer Affairs.

The bill has been amended accordingly, with the understanding that the extension will be on a probationary basis.

Your Committee has further amended the bill by amending Chapter 448H, Hawaii Revised Statutes, as follows:

- 1) §448H-3: The membership of the Board is to be comprised of four, rather than three, licensed elevator mechanics, and two, rather than three, lay members;
- 2) §448H-4: The Board must meet not later than thirty days prior to licensing examinations in order to evaluate applicants;
- 3) §448H-4: A quorum for Board meetings is to consist of four rather than five members;
- 4) §448H-4: Board members who miss two consecutive meetings or fifty per cent of the meetings in a year are to be removed; and
- 5) §448H-5: The Board is to review and upgrade examinations and standards.

These amendments will have the effect of increasing the Board's activity in the industry and will provide basis for evaluating its efficacy during the two year extension.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 42, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 42, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine and Yamasaki.

SCRep. 543 Consumer Protection and Commerce on S.B. No. 666

The purpose of this bill is to clarify conflicting references between the Industrial Loan Companies Act, Chapter 408, Hawaii Revised Statutes, and the Retail Installment Sales Act, Chapter 476.

Currently, the Industrial Loan Companies Act provides very detailed laws which licensees must follow in making loans to the public. The Retail Installment Sales Act provides sellers of goods with a different, although often similar, set of laws when the sale of goods and services are to be financed on some installment plan. These two separate laws are designed to govern the extension of credit by two entirely different groups of persons or companies. Industrial loan companies often purchase retail installment contracts and several references to the Retail Installment Sales Act have found their way into the Industrial Loan Company Act. These references have created confusing conflicts among the industrial loan companies and their legal counsel. This bill will resolve the conflicting references between the two chapters, thus allowing retail installment contracts to be made under Chapter 476 and loans under Chapter 408.

Your Committee has amended this bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 666, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 666, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine and Yamasaki.

SCRep. 544 Consumer Protection and Commerce on S.B. No. 1337

The purpose of this bill was to clarify that section 478-13, Hawaii Revised Statutes, was not intended to preempt the exemptions from the usury limitations set forth in section 478-8, Hawaii Revised Statutes.

Your Committee finds that this bill would tend to alleviate concerns within the financial community with respect to the application of the Hawaii law on exemptions from usury.

Your Committee has amended the bill to clarify the exemption for securities

regulated by Chapter 485, and to eliminate the maximum legal rate of interest permitted for Chapter 485 securities. These amendments were made to avoid possible conflict with constitutional provisions.

Your Committee has also amended the bill by revising the purpose section to more accurately reflect the changes made to the law by the bill as amended.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1337, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1337, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 545 Consumer Protection and Commerce on S.B. No. 26

The purpose of this bill was to require motor vehicle manufacturers and dealers to repair, replace or refund the purchase price of vehicles which do not conform to express warranties.

Supporting testimony by the Motor Vehicles Industry Licensing Board and the Office of Consumer Protection indicated that the bill would enhance the rights and remedies consumers already enjoy under Article II of the Uniform Commercial Code.

The Hawaii Automobile Dealers Association, on the other hand, urged the Committee to withhold action because it is their belief that the industry is already adequately regulated and has satisfactory procedures for handling complaints.

Although the Uniform Commercial Code provides some measure of relief for consumers who inadvertently purchase "lemons", your Committee finds that the proposals in this bill are necessary to insure the full range of protection envisioned by the warranty statutes.

Your Committee has amended the bill by:

1. Changing from four to three the number of documented attempts to repair defects a consumer must make in order to establish a presumption of appropriate action;
2. Requiring a dealer's repair shop to generate a written work order reflecting the consumer's complaint, with the consumer's copy to constitute written notice of the defect; and,
3. Providing that notification to a manufacturer of defects may come from its authorized agents and dealers, as well as the consumer.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 26, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 26, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 546 Consumer Protection and Commerce on S.B. No. 1248

The purpose of this bill is to clarify the definition of "survivor" as it relates to the no-fault law.

Current law provides that all appropriate and reasonable expenses incurred in obtaining services in substitution of those that the injured or deceased person would have performed not for income but for the benefit of himself or his family will be provided by no-fault benefits.

Your Committee finds that the original intent of the Legislature was to provide benefits for those who were economically dependent on a person who was injured or died in a motor vehicle accident, not to provide no-fault benefits for non-dependent persons.

By clearly defining survivor as used in this chapter to a surviving spouse and dependents as defined in the Internal Revenue Code, benefits will be paid only in

cases where the injured or deceased is survived by persons who were dependent on him while he was alive.

Your Committee received favorable testimony from various organizations including the Department of Commerce and Consumer Affairs and the Hawaii Insurers Council.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1248 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano and Uwaine.

SCRep. 547 (Majority) Consumer Protection and Commerce on S.B. No. 34

The purpose of this bill was to provide that any person engaged in the practice of speech pathology or audiology on September 1, 1981 as an employee of a local or state government agency shall be deemed in compliance with the licensure requirements without the need for a written examination provided these employees remain employed by the government agency.

Currently, the law states that all speech pathologists and audiologists employed by a government agency shall comply with the licensing requirements by December 31, 1984. Your Committee finds that while private sector professionals need to be licensed as an assurance for the protection of the general public, in the government sector, speech pathologists and audiologists are already required to pass stringent certification requirements and academic standards.

Your Committee heard extensive testimony from the Board of Speech Pathology and Audiology, the Hawaii State Teachers Association, and other interested parties in unanimous support of this measure. S.B. No. 428 was also heard by your Committee and addresses itself to Department of Education employees. There is no logic to exempting employees of one department while regulating employees of another department. Therefore, your Committee recommends favorable action on this measure to provide an equitable, across-the-board policy for exemptions of licensure requirements for speech pathologists and audiologists.

Your Committee amended the bill on page 1, line 7, by adding the words, "or before" after the word "on" and on line 8, after the word "of", by adding the words "or under contract to". The purpose of these amendments is to clearly identify the classes of persons to which this bill applies. Your Committee notes that for the purposes of this bill, under contract is synonymous with employed. Further, your Committee intends that this measure apply to employees currently working for various government agencies only so long as they continue such employment, and if an individual leaves government service, the licensing requirements shall be complied with.

Your Committee also made technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 34, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 34, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Uwaine.
Senator Carpenter did not concur.

SCRep. 548 Consumer Protection and Commerce on S.B. No. 805

The purpose of this bill was to improve the enforcement of the no-fault law by requiring all insurers to issue for each insured motor vehicle a decal indicating current compliance with the no-fault law.

Your Committee concurs in the need to deal with the problems caused by uninsured motorists who comprise about fourteen percent of Hawaii drivers.

However, your Committee finds that the proposed decal system would be costly to the insurer and consumer, inconvenient to administer, and difficult to enforce, and has amended the bill to:

a. Delete the no-fault decal provisions and add that instead, the present safety inspection procedure be utilized by requiring service stations to check for the existence of no-fault certificates prior to issuing a safety inspection sticker.

b. Require that the certificate indicate that a no-fault insurance policy is in force for the owner of the vehicle and that the policy, if written within the preceding thirty days has at least three months of pre-paid coverage. The certificate shall also contain the name of the insurance company and the signature of an authorized representative of the insurance company.

c. Require that every no-fault insurer issue a certificate when requested by an insured to provide proof of insurance.

d. Require that if an insurer has reason to believe a vehicle is no longer insured, the Director of Transportation and the Chief of Police shall be sent a notice alerting them of this possibility. The Director shall hold the notice until the next vehicle inspection due date and at that time the owner must prove that insurance is presently in force or be subject to a fine as an uninsured motorist. This requirement and the proof of three months of pre-paid insurance would rectify the situation where motorists obtain no-fault certificates and later cancel or fail to pay for their policies.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 805, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 805, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano and Uwaine.

SCRep. 549 Consumer Protection and Commerce on S.B. No. 711

The purpose of this bill was to bring the law on psychology into conformity with recommendations made by the Attorney General, the Legislative Auditor, and the Senate Consumer Protection and Commerce Committee.

At the public hearing on February 28, 1983, the outgoing chairman of the Board of Certification for Practicing Psychologists testified that this bill was the outgrowth of various recommendations in recent years in connection with the sunset review of the board's functions and responsibilities. Specifically, in 1981 the Senate Committee on Consumer Protection and Commerce had asked that the definition of "psychology" be more narrowly defined. This was done and the current law defining the practice of psychology "is the most restrictive definition in all the 50 States and the Provinces of Canada." The chairman testified further that the present law also contains broad "generic" credentialing requirements, and that as a result, "we are licensing some psychologists who do not have the appropriate 'clinical training and education' to practice under the new 'clinical' definition of psychology."

The thrust of the bill, he concluded, was to effect changes in the law dealing primarily with conforming existing training, examination and educational requirements for the licensing of psychologists to the present definition of psychology.

In the protracted hearing on this bill it was evident that the professional psychological community was divided as to the merits of the bill. There were suggestions that additional time was needed to bring to bear the views of all segments of the community.

Accordingly, your Committee requested that an ad hoc committee of members of the community who had taken part in the public hearing further consider the language of the bill and develop consensual amendments for review by your Committee.

This was accomplished, and the amended bill which this report recommends for adoption reflects that effort. These amendments include:

- 1) The substitution of licensing for certification;
- 2) The deletion of proposed changes to subsection (b) of Section 465-3;
- 3) The deletion of proposed additions of paragraph (4), (5), and (6) to Section 465-7;

- 4) The addition of Section 465-8 to substitute licensing for certification;
- 5) The deletion of proposed paragraph (4) to Section 465-10;
- 6) The addition of Section 465-11 to substitute licensing for certification; and
- 7) The removal of references to gender.

Your Committee further amended the bill by making nonsubstantive changes for the purpose of clarity and conformance with recommended drafting style.

Moreover, your Committee will follow the extended undertaking of the professional psychological community during the interim months prior to the 1984 Legislative Session, as a representative committee of that community conducts further study and analysis of the basic law on psychology, and on the rules and regulations pertaining to its application. Your Committee welcomes such participation on the part of the professional psychological community as a demonstration of responsibility by those dedicated to this vital discipline. This will contribute to the further refinement of the law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 711, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 711, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, B. Kobayashi, Uwayne and Yamasaki.

SCRep. 550 Consumer Protection and Commerce on S.B. No. 767

The purpose of this bill is to exempt surety bonds from the countersignature requirement of Section 431-104, Hawaii Revised Statutes.

Section 431-104, Hawaii Revised Statutes, provides that all insurance contracts produced outside the State must be countersigned by an agent who is a resident of Hawaii. Section 431-105 exempts reinsurance contracts between insurer, life insurance, and certain other kinds of insurance contracts from the provisions of Section 431-104.

Your Committee finds that the required countersignature neither enhances the validity of a surety bond nor benefits the countersigning agent, and that exemption for surety bonds is consistent with the position taken by the National Association of Surety Bond Producers and the Independent Insurance Agents of America.

Your Committee has amended the bill by making technical changes which has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 767, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 767, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwayne and Soares.

SCRep. 551 Consumer Protection and Commerce on S.B. No. 707

The purpose of this bill is to require that the developer of a horizontal property regime give each initial purchaser full express warranties of at least two years against structural defects and at least one year against appliance defects. The bill further requires any action to challenge the validity of an amendment to the declaration or bylaws adopted by the association of apartment owners to be brought within one year after such amendment is recorded.

Your Committee heard testimony from the Hawaii Council of Associations of Apartment Owners and Jean Minton, a condominium owner, in support of the need to give condominium buyers a two year warranty on construction and a one year warranty on appliances. One witness testified that owners would prefer the initial costs that may result from the warranties as opposed to the burdensome repair costs that may be incurred without the warranties.

Your Committee has amended the bill to delete the provision that no action to challenge the validity of an amendment to the declaration or bylaws adopted by the association of apartment owners may be brought more than one year after the amendment is recorded. Your Committee finds this provision would be contrary to the interests of apartment owners.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 707, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 707, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 552 Consumer Protection and Commerce on S.B. No. 187

The purpose of this bill was to eliminate issuance of temporary permits to non-residents to practice professional engineering, architecture, land surveying or landscape architecture in Hawaii.

Testimony by the Board of Registration of Professional Engineers, Architects and Surveyors indicated that at present, the qualifications for obtaining a temporary permit are the same as for permanent registration, and the time involved in obtaining permanent registration has been reduced to a point where it differs little, if any, from that for a temporary permit. In addition, the temporary permit is \$50 as opposed to \$30 for permanent registration.

Your Committee finds that non-resident applicants, for the above reasons, actually prefer to obtain permanent registration and further notes that the last temporary permit issued by the Board was in March, 1972. Therefore, your Committee recommends passage of this bill.

Your Committee has amended the bill by incorporating into it the substance of S.B. Nos. 188 and 189, both of which received testimonial support from several competent organizations and deal with the same general subject matter as this bill. As a result, this bill now includes the following:

- 1) From S.B. No. 188, (Section 464-6), the addition of landscape architects, which was inadvertently omitted in previous legislation, to the Board of Registration of Professional Engineers, Architects, and Surveyors; and
- 2) From S.B. No. 189, (Section 464-8), the provision that a person have a minimum of five years full-time experience in landscape architecture and a pre-landscape architecture or arts and science degree in order to be eligible for registration as a professional landscape architect. Present law requires at least three years experience and a degree or a minimum of twelve years full-time experience. The above provision would fill the gap between the three and twelve-year experience and the degree and non-degree requirements.

This bill also deletes references to sexual gender to conform to accepted drafting procedure.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 187, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 187, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.

SCRep. 553 Consumer Protection and Commerce on S.B. No. 904

The purpose of this bill was to establish fair dealership standards for dealers of office machines.

This bill adds a new chapter to the Hawaii Revised Statutes which establishes standards for the business relationship between suppliers of office machines and dealers.

According to the testimony of small businesses who sell and service office machines the addition of fair dealership regulations to the statutes is needed in order to provide a legal base by which disputes between manufacturer-suppliers and dealers can be settled. Small dealers also feel they are not being treated with fairness and equity since the suppliers can pull any line off the market without notice, and the dealers have no legal recourse.

Your Committee has amended the bill by clarifying the definition of "dealer" and deleting the definition of "product".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 904, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 904, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.

SCRep. 554 Consumer Protection and Commerce on S.B. No. 790

The purpose of this bill was to provide prior notice to insureds of casualty insurance rate increases and increase the time period between filing of rate increases and the effective date of such increases. The bill also withdraws the Insurance Commissioner's power to allow a filing to become effective retroactively.

Under current law an insurer must file proposed rate increases with the Insurance Commissioner and the rate increase cannot become effective for at least fifteen days after filing with the Commissioner. If the Commissioner needs more time to consider the filing, the waiting period may be extended another fifteen days. The Commissioner may also authorize a rate increase to become effective prior to the expiration of the original or an extended waiting period. Although rate filings are public records, there is no specific requirement for insurers to give prior notice to their insureds of a filing for a rate increase.

The bill as received by your Committee would have increased the waiting period before casualty rate filings become effective from fifteen days to one hundred eighty days; increased the filing extension period from fifteen to thirty days; required that all insureds be notified of the filings; and withdraw the Insurance Commissioner's power to allow a filing to become effective retroactively.

Your Committee received testimony from the Hawaii Independent Insurance Agents Association, the insurance division of the Department of Commerce and Consumer Affairs, and the Hawaii Roofing Contractors Association stating that there is a need for businesses to have fair and adequate notice of casualty insurance premium increases so they will be able to assess the impact of the increases on their pricing structures. This is particularly important in view of the increasingly high cost of workers' compensation insurance.

Your Committee upon consideration of this measure adopted the recommendations of expert testimony and amended the bill by decreasing the waiting period from one hundred eighty days to thirty days. The Department of Commerce and Consumer Affairs stated that a one hundred eighty day waiting period may result in stale statistics and greater actuarial uncertainty. The fifteen day extension period was retained.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 790, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 790, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Holt, Yamasaki and Soares.

SCRep. 555 (Majority) Consumer Protection and Commerce on S.B. No. 163

The purpose of this bill was to place a limitation on the amount of plaintiff attorneys' fees which may be recovered from the Patients Compensation Fund.

Current statutory provisions provide for plaintiff attorneys' fees in an action of medical tort to be a reasonable amount as approved by a court of competent jurisdiction. In practice, a reasonable amount is usually thirty-three and a third

to forty percent of the plaintiff's total recovery.

The Patients' Compensation Fund (PCF) was created by the Legislature to serve as an excess insurance carrier for health care providers. In order to obtain PCF coverage, a health care provider must have a minimum amount of insurance coverage from a private insurer. Coverage over the minimum amount required may be purchased from the PCF.

Your Committee received testimony from the Department of Commerce and Consumer Affairs stating that since the PCF provides defendant health care providers with the major portion of liability coverage, the bulk of attorney's fees are incurred by the PCF. However, experience reflects that more work and expenses are expended on the part of attorneys to recover the initial underlying limit than from the Fund because recovery from the underlying limit revolves around the issues of disability and damages, while recovery from the PCF focuses in the amount of damages.

The bill proposes to remedy this situation by providing that attorneys' fees applicable to the plaintiff's recovery from the Fund shall not exceed ten percent. The attorney's fee applicable to the underlying limit remain unchanged.

Your Committee finds that limiting the attorneys' fees recoverable from the PCF will provide greater benefits to the injured party and lower the overall insurance costs of health care providers. However, your Committee is aware that the issues addressed in this measure warrant further discussion by the Legislature.

Your Committee amended the bill by deleting the words "per diem" on line 9, of this bill to allow a plaintiff to pay attorneys' fees on other than a per diem basis. The bill was further amended by substituting the word "plaintiff" for "patient" on line 8 of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 163, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 163, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter and Holt.

Senator Cayetano did not concur.

SCRep. 556 Ways and Means on S.B. No. 4.

The purpose of this bill is to appropriate funds to meet the needs of the State through various capital improvement projects.

Your Committee finds that the demands of the growing population of Hawaii have placed increasing demands for land resources on the State. There is a need to acquire and develop these resources for recreational, agricultural, conservational, historical, archaeological, and other public purposes.

Your Committee believes that this bill will assist the State in meeting those public purposes through additional capital improvements.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 4, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 557 Ways and Means on S.B. No. 5

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

One additional judgment claim in the amount of \$7,843.03 was submitted by the Attorney General and is included in this bill.

Your Committee changed the date of lapsing of the appropriated funds from June 30, 1983 to June 30, 1984.

Your Committee also corrected the amount of interest claimed under Civil No. 57796, First Circuit, from \$353.33 to \$375.33.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 5, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 5, S.D. 2.

Signed by all members of the Committee.

SCRep. 558 Ways and Means on S.B. No. 370

The purpose of this bill is to allow the department of agriculture to suspend payments of principal and interest on loans made to farmers by the department under chapter 155, Hawaii Revised Statutes.

Section 155-13(c), Hawaii Revised Statutes, presently allows a lender to extend the time for making repayments of principal on loans if the borrower is in a state of extreme financial hardship. This bill broadens the section to allow suspension of payment of both principal and interest, if there exists financial hardship caused by, among other things, natural catastrophes.

Your Committee agrees that this bill is needed to provide financial relief to farmers who are unable to make immediate payments on state agricultural loans as a result of hardship caused by Hurricane Iwa.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 370, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 370, S.D. 2.

Signed by all members of the Committee.

SCRep. 559 (Majority) Ways and Means on S.B. No. 949

The purpose of this bill is to amend the definition of farmer to provide for a uniform definition of an individual farmer throughout the statutes.

Under the present statutes, there are varying definitions of the term farmer.

This bill provides for a uniform definition of an individual "farmer", which applies to an individual farmer and clarifies "qualified farmer" which includes farmers, and partnerships and corporations of which at least seventy-five per cent of the directors are farmers.

Your Committee has amended the bill by specifying that "nonindividual concerns" are able to bid on agricultural and pasture leases. Your Committee's intent is to allow a partnership, corporation or another joint venture to bid on agricultural and pasture leases without stipulating that seventy-five percent of the directors must be farmers.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 949, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 949, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 560 Ways and Means on S.B. No. 905

The purpose of this bill is to establish an Hawaii product development corporation.

Your Committee finds that there is a serious shortage of venture capital to promote the development and exploitation of products. As a result, the State faces a continuing decrease in new business enterprises and job opportunities.

The Hawaii product development corporation would be empowered to enter into venture financing agreements with local businesses for the development of products, procedures, and techniques in the State.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 905, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 905, S.D. 2.

Signed by all members of the Committee.

SCRep. 561 Ways and Means on S.B. No. 1061

The purpose of this bill is to exempt from the general excise tax gross proceeds derived from the overseas sales of electronic products, advanced communication devices, specialty instruments and sensors, biotechnology products, and other such similar technology products which are manufactured in Hawaii.

Your Committee finds that the development and manufacturing of high technology products is a desirable industry for Hawaii. This bill will serve to promote the ability of Hawaii's high technology companies to compete in other markets by removing a component in the cost of doing business.

Your Committee has amended the bill by deleting the requirement that products be deemed appropriate for the tax exemption by the Department of Planning and Economic Development. Under the bill, the Director of Taxation is required to adopt rules to implement the exemption, and it is your Committee's intent that the rules include the designation of products which are qualified for exemption. The Department of Planning and Economic Development has suggested that its mandate to determine the products appropriate for the exemption be deleted since the mandate is redundant to the Director of Taxation's duty. The Department of Planning and Economic Development also has stated that it will advise the Director of Taxation even if the mandate is deleted. Thus, your Committee has made the change suggested, but states its intention that the change is not to be construed as preventing the Department of Planning and Economic Development from taking any role in the determination of the products which qualify for exemption.

The Department of Taxation has testified in favor of this bill, but, by its own admission, is unenthusiastic. Yet, your Committee has retained the provision that the Director of Taxation designate those products which overseas sales are to be exempt under this bill. Your Committee recognizes that broad authority has been conferred to the Director and, notwithstanding the lack of enthusiasm, is confident that the Director will administer the exemption in the spirit of the legislative intent as expressed in the purpose section of the bill and appropriate committee reports.

Your Committee also has made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1061, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1061, S.D. 2.

Signed by all members of the Committee.

SCRep. 562 (Majority) Ways and Means on S.B. No. 1062

The purpose of this bill is to add a chapter to the Hawaii Revised Statutes establishing a high technology development corporation and a Pacific International Center for High Technology Research.

Your Committee finds that the development of high technology industries in Hawaii is desirable as a means of diversifying our economy. Such development would provide additional employment opportunities and income for Hawaii residents, and is all the more attractive because it is nonpolluting and requires few indigenous natural resources.

Your Committee finds that these positive attributes make high technology development attractive to many other countries and states and that the State must provide incentives in order for such industry to locate in Hawaii. This bill would create a high technology development corporation, a public corporation and an agency of the State, which would have the powers to develop industrial parks and to issue tax-exempt special purpose revenue bonds to assist in financing the development of such industry. This bill would also establish a Pacific International Center for High Technology Research to assist the high technology

development corporation and to promote cooperative educational and scientific pursuits in high technology among countries, corporations, and universities.

Your Committee has amended the bill by inserting a phrase in the purpose clause of the bill which was mentioned in a previous standing committee report but inadvertently omitted from Senate Draft 1 of this bill.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1062, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1062, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 563 (Majority) Ways and Means on S.B. No. 1085

The purpose of this bill is to require the Board of Land and Natural Resources to fix royalty payments on geothermal resource utilization at rates that will encourage production and to authorize the board to waive royalty payments for a fixed period not to exceed ten years.

This bill is intended to encourage the development of geothermal energy in the State. Your Committee considers this bill to be in the public interest and favors its enactment.

The Department of Land and Natural Resources and Department of Planning and Economic Development have testified in favor of this bill, but have expressed reservations about the provision allowing the waiver of royalty payments. Basically, the departments feel that developers should pay some amount in return for the State's resources. Your Committee recognizes the reservations of the departments. But, the bill does not mandate the waiver of royalty fees. The Board of Land and Natural Resources, under the bill, still has the authority to require developers to pay fees.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1085, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1085, S.D. 1.

Signed by all members of the Committee.
Senators Kawasaki and Solomon did not concur.

SCRep. 564 (Majority) Ways and Means on S.B. No. 833

The purpose of this bill is to establish the administrative framework necessary for implementing the federal Job Training Partnership Act (JTPA).

The Hawaii Job Training Coordinating Council has been established based on the mandate of the federal JTPA. This council, which serves in an advisory capacity to the governor, would require the services of an executive director and a program assistant in order to properly implement JTPA.

In contrast to the temporary nature of the Comprehensive Employment and Training Act (CETA), which it has replaced, JTPA represents the Reagan Administration's concept of "new federalism" placing the responsibility of implementing the new jobs program on the states.

According to testimony of the department of labor and industrial relations, the successful implementation of JTPA by October 1, 1983, is heavily dependent upon maintaining an experienced staff.

This bill would provide the Hawaii Job Training Coordinating Council with the services of an executive director and a program assistant, as well as retain the expertise of those temporary employees hired under CETA.

Your Committee has amended the bill to provide for continual employment of all persons hired by the department of labor and industrial relations under CETA for the purpose of implementing JTPA but exempting them from chapters 76 and 77.

It also has made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 833, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 833, S.D. 1.

Signed by all members of the Committee except Senator Fernandes Salling. Senators Kawasaki and Soares did not concur.

SCRep. 565 Ways and Means on S.B. No. 834

The purpose of this bill is to establish a state-funded job training program for dislocated workers under the federal Job Training Partnership Act (JTPA) of 1982.

Under the JTPA, states are required to match federal funds, dollar for dollar, through non-federal contributions. The program and funding provided by this bill fulfills this requirement and would allow the State to receive federal funds to establish a program for its dislocated workers.

Your Committee has changed the format of the bill to conform to proper bill drafting standards, deleted the appropriation, and made other technical, nonsubstantive amendments throughout the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 834, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 834, S.D. 1.

Signed by all members of the Committee.

SCRep. 566 (Majority) Ways and Means on S.B. No. 459

The purpose of this bill is to provide for a checkoff on state income tax return forms to allow an individual taxpayer the option of contributing a donation toward the conservation of state native wildlife.

The bill provides that an individual taxpayer may designate on an income tax return that a portion or all of the tax refund due to the taxpayer be placed into the state native wildlife account created by the bill. Any taxpayer, including one who must pay additional taxes, will be allowed to include an additional amount of \$1 or more as a donation to the state native wildlife account. The bill also prohibits the reduction or nonallocation of general fund appropriations to the department of land and natural resources on account of moneys placed in or expenditures from the state wildlife account.

Your Committee finds that Hawaiian wildlife accounts for fifty-eight percent of the nation's endangered species and public expenditures for their recovery have not fulfilled urgent needs. Broad concern with the loss of unique lifeforms has resulted in the checkoff option proposed by this bill. This option is already well established in twenty other states and has been of great benefit to each region's natural heritage.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 459, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Fernandes Salling. Senators Kawasaki, Henderson and Soares did not concur.

SCRep. 567 Ways and Means on S.B. No. 1279

The purpose of this bill is to merge the Environmental Quality Commission and the Environmental Council, and realign their functions with the Office of Environmental Quality Control.

Your Committee finds that the consolidation of these fragmented functional groups will streamline the review and reduce the confusion in the evaluation of environmental impact statements.

Your Committee has amended the bill to do the following: (1) require that the director of environmental quality control be an ex-officio voting member of the environmental council; (2) exclude the director from the appointment requirement

and term of membership restrictions placed on other members of the council; (3) provide that the director need not be the chairperson of the council; and (4) require the council to meet at the call of the council chairperson instead of at the call of the director.

Your Committee has also made minor technical and grammatical changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1279, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1279, S.D. 2.

Signed by all members of the Committee.

SCRep. 568 Ways and Means on S.B. No. 126

The purpose of this bill is to exempt credit card payments for state hospital charges from section 40-35, Hawaii Revised Statutes (HRS).

Under section 40-35, HRS, money paid to the State under protest is retained by the State pending resolution of the dispute. Federal regulations, however, allow credit card holders the right to withhold payments to credit card companies in the event of a dispute. Because of the contradictory provisions, credit card companies are concerned that they will incur financial losses in the case of a dispute between the State and credit card holders. This situation has resulted in a barrier preventing the use of credit cards to pay state hospital charges. This bill removes the barrier.

Your Committee has made technical, nonsubstantive changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 126, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 126, S.D. 1.

Signed by all members of the Committee.

SCRep. 569 Ways and Means on S.B. No. 306

The purpose of this bill is to mandate the Department of Health to administer a maternal and child health program.

Presently, the Department is limited statutorily to providing preventive care. The Department has testified in favor of this bill because of the expansion of the Department's authority to provide appropriate and quality health care services to mothers and children of the State.

Your Committee has amended the effective date of the bill from upon approval to July 1, 1983. Your Committee also has changed the word "fund" on page 2, line 17 of the bill as received to "funds".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 306, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 306, S.D. 1.

Signed by all members of the Committee.

SCRep. 570 Ways and Means on S.B. No. 423

The purposes of this bill are to:

- (1) Require the Department of Health to foster and coordinate a comprehensive system to reduce the incidence of alcohol and drug abuse and mental and emotional illness and to treat and rehabilitate victims in the least restrictive and most therapeutic environment;
- (2) Authorize the Department of Health to promote and provide a community based mental health system responsive to the needs of persons of all ages, ethnic groups, and geographical areas of the State, reflective of an equitable distribution of resources and services, and monitored and evaluated in terms of standards, goal attainment, and outcomes;

(3) Establish a state council on mental illness and substance abuse to advise the Department of Health on the allocation of resources, statewide needs, and programs concerning mental health; and

(4) Establish a service area board to advise each community center.

Your Committee drafted a proposed senate draft 2 version of this bill for review by concerned agencies. The National Association of Social Workers, Hawaii Mental Health Coalition, and Mental Health Association in Hawaii have testified in favor of the senate draft 2 version. The Department of Health also has stated that the senate draft 2 version addresses some of its concerns.

The following are the substantive amendments made in the senate draft 2 version:

(1) The words "and treatment" have been added after "prevention" on page 2, line 16 of the senate draft 1 version and the words "and rehabilitation of patients" have been added after "abuse" on page 2, line 18 of the senate draft 1 version;

(2) Section 334-3(a), Hawaii Revised Statutes (HRS), has been amended by repealing paragraph (4) and replacing the paragraphs proposed in the bill, as introduced;

(3) The provision requiring the Department to continually revise the system has been made nonmandatory. This provision was in section 334-3(b)(7), HRS, of the senate draft 1 version. It now comprises the entire section 334-3(b), HRS, in the senate draft 2 version.

(4) Section 334-3(c), HRS, in the form contained in the bill, as introduced, has been reinserted in the senate draft 2 version, with one major difference. The Department is authorized to perform the duties listed in the senate draft 2 version. In the bill, as introduced, the duties were mandatory upon the Department. The proposed subsection (c) was deleted from the senate draft 1 version.

(5) In the senate draft 2 version, section 334-3(c)(14) has been worded differently from the bill, as introduced. In the bill, as introduced, the wording is not grammatically correct in relation to the rest of the subsection. The wording also requires the Mental Health Division to oversee and coordinate services. Your Committee has changed the wording to fit the subsection and allow, instead of require, the Mental Health Division to perform the duty.

(6) A provision requiring the Department to provide a written explanation for any action taken which is not in conformance with the state council on mental illness and substance abuse's advice has been added in the senate draft 2 version as section 334-3(d)(6), HRS. This provision was in the bill, as introduced, but deleted from the senate draft 1 version.

(7) The submission date of the annual report of the state council on mental illness and substance abuse has been changed to "at least ten days prior to the convening of each regular session".

(8) A provision requiring a community center's chief to provide a written explanation of any action taken which is not in conformance with the advice of the center's service area board has been added in the senate draft 2 version. This provision was in the bill, as introduced, but deleted from the senate draft 1 version.

Your Committee has also made nonsubstantive, technical changes to the senate draft 2 version circulated to concerned agencies.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 423, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 423, S.D. 2.

Signed by all members of the Committee.

SCRep. 571 Ways and Means on S.B. No. 540

The purpose of this bill is to require the Department of Social Services and Housing to provide child care services, as defined and when deemed necessary by

the Department, for the protection and care of neglected children, children in danger of becoming delinquent, or children who are developmentally delayed.

This bill clarifies and strengthens the Department's mandate concerning child care services.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 540, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 572 Ways and Means on S.B. No. 821

The purpose of this bill is to establish a gerontology unit within the Department of Health.

A gerontology unit demonstration project has been operating within the Department of Health on seed money provided by the Executive Office on Aging. The Department of Health would like to establish a permanent unit; however, because of statewide budget ceilings, it was unable to include the unit in the Department's administrative budget.

Your Committee finds that the gerontology unit, during its two and one-half years of existence, has established itself as an important vehicle for expanding access to services in order to improve the health of Hawaii's elderly population. The unit has made considerable progress in attempting to coordinate public information, data collection, needs assessment, and planning and coordination activities both within the divisions of the Department of Health and among different state agencies offering other health and social services to the elderly. This bill authorizes the Department of Health to establish the gerontology unit on a permanent basis and makes an appropriation for fiscal year 1983-1984 to finance its operation.

Your Committee has amended the bill by changing the appropriation of \$78,970 to an unspecified amount.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 821, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 821, S.D. 1.

Signed by all members of the Committee.

SCRep. 573 Ways and Means on S.B. No. 824

The purpose of this bill is to establish a statutory basis for providing services to developmentally disabled persons.

Under present law, the Department of Health, through its Community Services for the Developmentally Disabled Branch, is authorized to provide a full range of services to mentally retarded persons, but there is no statutory basis for the delivery of services to severely handicapped or otherwise disabled persons who are not mentally retarded.

Your Committee finds that there are many moderately retarded individuals who function normally without Department services, while at the same time there are multiply handicapped people in the community who are developmentally disabled rather than mentally retarded who could greatly benefit from services but cannot receive them due to the language in the law. This bill repeals the community program portion of the mental retardation statute and allows the Community Services for the Developmentally Disabled Branch of the Department of Health to provide services to developmentally disabled persons.

Your Committee has amended the bill to provide that the director of health may require, rather than shall require, a recipient of state funds to contribute moneys, facilities, or services to carry out a program or project. Your Committee has also changed the effective date of the bill from its approval to July 1, 1983.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 824, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 824, S.D. 2.

Signed by all members of the Committee.

SCRep. 574 Ways and Means on S.B. No. 826

The purpose of this bill is to ensure long-term care services for Hawaii's elderly and low-income population in certain community nonprofit hospitals.

Currently, the average cost of long-term hospitalization is \$108 a day. The Tax Equity and Fiscal Responsibility Act of 1982 notified hospital providers that they will be reimbursed only \$68 a day per patient for all services, leaving them with an estimated \$40 a day shortfall which cannot be absorbed or shifted to private patients.

Your Committee has amended this bill by expanding the reference to "community nonprofit hospitals" to "community hospitals and health facilities" and has made other conforming changes, so that other health care providers which experience the same problem of shortfalls in reimbursement for long-term health care services may be included.

Your Committee accordingly deleted reference to the eight named community hospitals on page 2 of the bill, as received, so as not to exclude other health care providers.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 826, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 826, S.D. 1.

Signed by all members of the Committee.

SCRep. 575 Ways and Means on S.B. No. 994

The purpose of this bill is to authorize the department of health to make a loan of not more than \$250,000 to Molokai General Hospital.

Currently, Molokai Hospital faces a substantial negative cash flow and additional liabilities of \$250,000 in loans, trade, and other payables, some of them dating back to June, 1982. This bill will solve Molokai Hospital's current debt problem and allow it to continue to provide needed health services to the residents of Molokai.

Your Committee has amended this bill by providing that the sum appropriated be for fiscal years 1982-83 and 1983-84 rather than only for fiscal year 1983-84 as provided in the original bill. Since Molokai Hospital's situation is critical, this amendment would allow for the implementation of the loan and the payment of some of its debts before July 1, 1983.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 994, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 994, S.D. 1.

Signed by all members of the Committee.

SCRep. 576 Ways and Means on S.B. No. 119

The purpose of this bill, as received, is to amend the Hawaiian Homes Commission Act, 1920, as amended, to increase the ceiling on loans to lessees for the purchase and erection of a dwelling.

Your Committee has amended this bill to increase the ceiling on loans to lessees for the repair, maintenance, purchase, and erection of a dwelling. Presently loans to lessees for the repair, maintenance, purchase and erection of a dwelling, and related permanent improvements are limited to \$50,000. This bill, as amended, would increase the limits of such loans to lessees to \$60,000.

Your Committee has made other nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 119, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 119, S.D. 2.

Signed by all members of the Committee.

SCRep. 577 Ways and Means on S.B. No. 608

The purpose of this bill is to expand the applicability of the Rental Assistance Program to include rental housing projects financed by the Farmers Home Administration or the Department of Housing and Urban Development.

Your Committee finds that the rental subsidies provided under the program are currently limited to housing projects which are financed with the proceeds from the sale of Hula Mae bonds. Yet, the need for a rental assistance program where qualified tenants are assisted with rental payments is quite evident. On Oahu alone, about 23 percent of the households pay in excess of 25 percent of their income on rent, 18 percent of the households pay more than 30 percent of their income on rent, and 8 percent more than 50 percent of their income on rent according to the recent U.S. Bureau of Census data.

Your Committee recognizes that rent subsidies in addition to below-market-rate mortgages are needed to overcome the disincentives to building new rental housing for households of low and moderate income. With the severe federal cutbacks that we have been experiencing, the State must take positive action in this area.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 608, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 578 Ways and Means on S.B. No. 704

The purpose of this bill is to eliminate the repeal date for Act 278, Session Laws of Hawaii 1982, which has to do with an expanded Hula Mae program.

This bill allowed the Hawaii Housing Authority to expand the Hula Mae program by issuing tax-exempt revenue bonds to finance home improvement loans but has a repeal date of December 31, 1983.

Your Committee believes that the repeal date was meant to coincide with the federal Mortgage Subsidy Bond Tax Act of 1980 which prohibits the issuance of revenue bonds after December 31, 1983. The implications of such a repeal date, however, are far greater than originally perceived.

Although December 31, 1983 would be the last day on which revenue bonds could be issued, the federal law does not prohibit the Authority from continuing to operate the program with existing bond proceeds. However, if the repeal date were effectuated, the Authority would not be able to operate the program, since the provisions in a number of sections that would consequently be repealed are essential to the program.

Your Committee finds that to avoid jeopardizing the continuation of the Hula Mae program beyond 1983, this bill is needed at this time.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 704, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 579 Ways and Means on S.B. No. 965

The purpose of this bill is to allow moneys in the housing development fund to be used for government assistance programs.

Currently, the Hawaii Housing Authority is permitted to make loans to nonprofit entities to cover initial project costs such as land surveys, preliminary subdivision layout, and preliminary plans and specifications. This enables the nonprofit group to determine if a proposed project is feasible for development. These loans, referred to as "seed money", are currently limited to housing projects which will be developed through the use of federal funds.

Your Committee finds that as general federal cutbacks have affected the availability of funds for the housing industry including nonprofit groups, the seed money available under current laws is not being utilized.

Your Committee agrees that this bill will enable nonprofit groups to apply for "seed money" loans for housing projects developed through government assistant programs which include state and county programs as well as federal programs.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 965, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 965, S.D. 2.

Signed by all members of the Committee.

SCRep. 580 Ways and Means on S.B. No. 966

The purpose of this bill is to provide more flexibility by allowing the maximum qualifying income limits under the Hula Mae program to be increased according to a prescribed formula if the annual interest rate on the Hula Mae loan exceeds ten percent.

The intent of the bill is to allow qualification restrictions to be more sensitive to market forces, rather than be arbitrarily fixed and insensitive to relative demand.

Currently, an eligible borrower's adjusted household income in order to qualify under the Hula Mae program cannot exceed one hundred fifty percent of the median annual income for households of four persons in the State as published by the United States Department of Health and Human Services in November 1980.

Under this bill, the Hawaii Housing Authority may raise Hula Mae program income limits by four percent for every one-half percentage point increase over an annual interest rate of ten percent.

The bill deletes the requirement that the adjusted household income of a family of one not exceed one hundred percent of the median income.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 966, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 581 Ways and Means on S.B. No. 1027

The purpose of this bill is to provide interim loans to farmers and ranchers who have been unable to obtain adequate immediate relief for Hurricane Iwa damage under existing relief programs, by providing an appropriation of \$1,000,000 to the Department of Agriculture for that purpose; and by amending section 155-3, Hawaii Revised Statutes, to remove the restrictions on class D disaster loans made under section 155-9(4), Hawaii Revised Statutes, so that farmers may obtain such loans while applications for federal or private loans are being processed.

Your Committee has amended section 3 of the bill to:

(1) Broaden the intent of the appropriation by specifying that the sum be appropriated to the agricultural loan revolving fund to provide emergency relief to "qualified farmers" as defined in the agricultural loan statute instead of limiting the use of the appropriation to Class D emergency loans; and

(2) To add a proviso that all sums not expended or encumbered shall be used for other agricultural loans as provided under the agricultural loan statute.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1027, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1027, S.D. 2.

Signed by all members of the Committee.

SCRep. 582 Ways and Means on S.B. No. 368

The purpose of this bill is to reassign school vehicle safety responsibilities so that the Department of Transportation is responsible for school bus safety standards, regulations, vehicle equipment inspection and maintenance, and the

monitoring and enforcement of safety standards, while the Department of Education is made responsible for school vehicle passenger safety and conduct.

Your Committee finds that this reassignment of duties recognizes current practice among the Departments and appropriately assigns duties according to departmental function. To clarify departmental responsibility and strengthen school vehicle safety, passage of this bill is needed at this time.

Your Committee has amended the bill to delete the appropriation from the highway fund and made technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 368, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 368, S.D. 1.

Signed by all members of the Committee.

SCRep. 583 Ways and Means on S.B. No. 402

The purpose of this bill is to provide a tax credit to each individual or corporate resident taxpayer who donates computers to any Hawaii public school.

Your Committee finds that the tax credit may be claimed for each computer given to any Hawaii public school (grades K to 12) in an amount not to exceed 25 percent of the fair market value of the computer. The credit can be claimed against net income tax liability for the taxable year in which the computer was given to the public school. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against income tax liability in subsequent years until exhausted.

The bill further provides that the income tax credit may be claimed only if the specific qualifying provisions of the bill are met with respect to the donation of the computer.

Your Committee supports the effort of this bill to encourage the donation of computers to Hawaii public schools and thus assist the schools in computer training.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 402, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 584 Ways and Means on S.B. No. 1048

The purpose of this bill is to require the department of education to promote the establishment of after-school child care programs at each public school where elementary grades are offered or at a nearby site if the school facilities are inadequate.

Presently, the department of education permits the use of school facilities by outside groups to provide after-school child care programs, but the department itself is not required to provide such programs. This bill permits the department to establish after-school child care programs within its capability and allows the department to enter into agreements or contracts with individuals, organizations, or agencies to provide the services.

Your Committee has amended the bill as follows:

(1) Subsection (b) of section 1 of the bill has been amended to provide a definition of "after-school" programs rather than "after-school child care" programs and to clarify that after-school programs are programs in which a student may be enrolled at the option of the student's parents or guardian.

(2) Subsection (b) of section 1 of the bill was also amended to permit rather than require the department of education to establish and collect a reasonable fee for students enrolled in after-school programs and to also allow any individual, organization, or agency operating an after-school program to establish and collect such fees.

(3) Subsection (c) of section 1 of the bill was amended by deleting the sentence

added to the end of the subsection which reads "For the purposes of this section the department and the appropriate county agencies shall be exempt from the licensing provisions of section 346-18" and replacing that sentence with "Pursuant to this section, the department and any individual, organization, or agency operating an after-school program shall be exempt from the licensing provisions of section 346-18."

(4) Technical, nonsubstantive amendments were made throughout the bill.

Your Committee on Ways and Means is in accord with S.B. No. 1048, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1048, S.D. 2.

Signed by all members of the Committee.

SCRep. 585 Ways and Means on S.B. No. 1049

The purpose of this bill is to change the compensation method for members of the board of education.

Presently board of education members are compensated at the rate of \$50 a day for each day's actual attendance at meetings. During the past two years, the board has increased its activities and has been examining many important policy issues that have emerged. Therefore, many additional board meetings are necessary due to unforeseen circumstances such as matters involving collective bargaining negotiations, personnel changes, school emergencies, and library problems that require the formulation or updating of policies. More meetings have meant more costs; however, under the executive budget timetable, the board's budget is developed at least one year in advance and cannot be readily adjusted as conditions change.

The bill provides compensation of \$5,000 a member. This is comparable to the average amount received by each board member and is within the amount budgeted in the 1983-1985 biennial budget. At \$5,000 a member, the total cost for thirteen board members is \$65,000.

Your Committee has amended the bill to provide compensation to board members at \$50 a day for each day's actual attendance at meetings not to exceed \$5,000. It also made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1049, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1049, S.D. 1.

Signed by all members of the Committee.

SCRep. 586 Ways and Means on S.B. No. 1089

The purpose of this bill is to establish a nonprofit corporation, the "Hawaiian Islands Aquarium Corporation", to operate and maintain the Waikiki Aquarium and marine-related research and educational programs. The transfer of control of the Aquarium from the University of Hawaii to this corporation is necessary for the expansion and development of the Aquarium into an independent, self-sufficient recreational and educational institution.

Your Committee amended section -8(a) of section 1 of the bill as follows:

(1) The provision requiring that the agreement between the University of Hawaii and the corporation "enter into full force and effect upon the effective date of this chapter" was deleted since the corporation presumably would be formed after the effective date of the bill and it would, therefore, be impossible for an agreement to become effective at the same time.

(2) The sentence requiring the University of Hawaii to contribute to the operating budget of the corporation during the transition period from being a unit of the University of Hawaii to an independent, nonprofit status was deleted and replaced by a new sentence which reads "State support for the operating budget of the corporation during the period of transition shall continue to be requested through the University of Hawaii and included in its budget." Testimony from the University of Hawaii noted that since the Waikiki Aquarium has a separate budget under the culture and recreation program of the state budget, the amended

language would be more appropriate.

Your Committee also made technical, nonsubstantive amendments throughout the bill.

Your Committee is in accord with the intent and purpose of S.B. No. 1089, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1089, S.D. 2.

Signed by all members of the Committee.

SCRep. 587 Ways and Means on S.B. No. 1122

The purpose of this bill is to reestablish the salary of the State Librarian to the level of a department head.

The amended purpose of this bill is to exempt the State Librarian from chapters 76 and 77, Hawaii Revised Statutes.

Your Committee received testimony supporting the proposed elevation of the position of State Librarian to department head status. Your Committee does not agree that such a change is justified, however, and has deleted the proposed change in status from the bill and retained the existing salary established in 1982. The 1981 salary deletion is retained as it is unnecessary to keep that provision.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1122, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1122, S.D. 2.

Signed by all members of the Committee.

SCRep. 588 (Majority) Ways and Means on S.B. No. 900

The purpose of this bill is to change the expiration date of the liquor tax exemption for okolehao and fruit wine sales from June 30, 1981 to June 30, 1984.

The purpose of providing a tax exemption is to encourage the development of an industry or enterprise within the State. The okolehao and fruit wine manufacturers maintain that the current twenty percent tax levied on liquor is prohibitive toward the successful development of local products and that an extension of the tax exemption is needed.

Your Committee agrees that an extension of the liquor tax exemption is in order, however, it is the intent of your Committee that the extension be for only one year and not be retroactive to June 30, 1981. The bill has been amended to reflect this intent by deleting the dates "May 17, 1971 to June 30, 1981" and "May 17, 1976 to June 30, 1981" and substituting therefor "July 1, 1983 to June 30, 1984." Technical, nonsubstantive amendments were also made to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 900, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 900, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 589 (Majority) Ways and Means on S.B. No. 937

The purpose of this bill is to implement the constitutional mandate to provide a tax refund or tax credit when, under certain conditions, there is a balance in the state general fund.

Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide for a tax refund or tax credit to the taxpayers of the State whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years. Since these factors have been met for the third year in a row, this bill is necessary to satisfy the constitutional mandate.

The bill provides:

(1) For a general income tax credit of an unspecified amount, in addition to any other credit allowed under the Hawaii income tax law, which is to be multiplied by the number of qualified exemptions; provided that the qualified exemption has been a resident of the State for at least nine months and that multiple exemptions because of age, for deficiencies in vision, hearing, or other disability shall not be allowed.

(2) That the credit shall not be available to any person convicted of a felony and committed to prison for the full taxable year; any person committed to a youth correctional facility for the full taxable year; or any misdemeanor committed to jail for the full taxable year.

(3) For a check off mechanism to allow individual taxpayers an opportunity to either take the credit or to instead direct that the credit be used for instructional materials, text books, or library books for the department of education.

Testimony on this bill from the Department of Taxation and the Tax Foundation of Hawaii raised concerns that the paper processing requirements of the check off provision of this bill would create more administrative difficulties and the cost of such processing would exceed the benefits derived from this provision. The Department of Taxation also noted that the check off provision conflicts with section 231-23, Hawaii Revised Statutes, which provides for a setoff against refunds for any moneys owed the State. In view of these concerns, your Committee has amended the bill to delete subsection (c) of section 2 of the bill which provides for the check off procedure.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 937, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 937, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Henderson and Soares did not concur.

SCRep. 590 Ways and Means on S.B. No. 555

The purpose of this bill is to make the following changes in the various Department of Commerce and Consumer Affairs service fees: (1) increase the fee for an original certificate of compliance from \$1 to \$5, and additional copies from 25 cents to \$1; (2) establish a fee of \$15 for service of process upon corporations; (3) increase the fee for filing a certificate of registration of a print, label, or trademark from \$10 to \$25; (4) increase fees for legal processes and notices from \$5 to \$10; and (5) amend section 26-9(k), Hawaii Revised Statutes, to provide the Director of Commerce and Consumer Affairs with the authority to increase or decrease the fees by rules in accordance with chapter 91, Hawaii Revised Statutes.

Your Committee finds in general, that the increase in fees reflects the recovery of the cost of services rendered, and that many of the fees have not been changed since the services were instituted. Your Committee further finds that in the case of the registration of trade names, trademarks, service marks, prints, and labels, in addition to cost recovery benefits, the increased fees will deter those persons who register a large number of names to prevent anyone else from using them.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 555, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 555, S.D. 2.

Signed by all members of the Committee.

SCRep. 591 Ways and Means on S.B. No. 472

The purpose of this bill is to amend the criminal injuries compensation law as follows:

(1) To provide that the person applying for compensation does not have to provide written statements, documents, or other written verification to prove the amount of compensation the person is entitled to, but may rely on other means of available verification, which will prevent the Commission from becoming an impersonal accounting system, requiring the victim to produce receipts before considering compensation.

(2) To provide that if the victim incurs medical expenses after the award, the

victim may apply to the Commission to reconsider the award, which will allow claimants to apply for compensation for unanticipated or unexpected medical expenses arising from injuries resulting from the crime.

(3) To provide that relatives of a murder victim may apply for compensation for out-of-pocket medical, hospital, funeral, and burial expenses, but not for loss of earnings or other pecuniary losses from the murder of the victim, unless the relatives are also dependents.

(4) To eliminate pain and suffering as a compensable item. Given the \$10,000 maximum amount of compensation under the criminal injuries compensation law, it is not possible for the Commission to make an award which will reasonably compensate the victim for pain, suffering, emotional, and physical distress. The standing committee reports on S.B. No. 16, which in 1967 became the Criminal Injuries Compensation Act, clearly state that the original purpose of the Act was to make awards in recognition of the government's duty to protect citizens from criminal acts, not to make benevolent grants out of mercy or sympathy. Primarily, the awards were to compensate victims of crime for personal injuries and certain property damages. Despite this intent, the award has become the kind of benevolent grant that the original drafters wanted to avoid. Limiting awards to out-of-pocket medical or funeral expenses and other measurable monetary losses, incurred by the injury to or death of the victim, is in accord with the Act's original intent and will relieve the Commissioners of the weighty burden of attributing a dollar amount to the victim's physical and emotional distress. Deletion of the highly subjective award for pain and suffering will result in fairer and more equitable awards to all claimants.

(5) To provide that compensation paid by the Commission is exempt from taxation, execution, garnishment, or other process, since an award of compensation is not income to the claimant but merely reimbursement for expenses or lost earnings.

Your Committee has made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 472, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 472, S.D. 2.

Signed by all members of the Committee.

SCRep. 592 (Majority) Ways and Means on S.B. No. 1192

The purpose of this bill is to maintain the Hawaii Crime Commission in the Office of the Lieutenant Governor for administrative purposes until June 30, 1984, and to provide for four year terms for commission members.

Your Committee finds that the Commission serves as a monitor of the state criminal justice system and should be allowed to continue its work through June 30, 1984.

Your Committee has amended the bill by deleting the appropriation for the Commission, by deleting the proposed change in the Commission's investigatory duties, and by making technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1192, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1192, S.D. 2.

Signed by all members of the Committee.

Senators Solomon, Henderson and Soares did not concur.

SCRep. 593 Ways and Means on S.B. No. 20

The purpose of this bill is to reduce the period allowed to the State and counties to pay for goods and services received from sixty days to forty-five days, before any interest is assessed; and to delete the requirement of submitting the original warrants and bills in specified business transactions with the State.

Your Committee finds that many small independent businesses which contract with the State and counties survive on a tight cash flow. When they are not promptly paid by the State or counties, difficulties arise in paying ordinary operating expenses and suppliers.

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

S.B. No. 20, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 594 Ways and Means on S.B. No. 607

The purpose of this bill is to increase program income by allowing private organizations to accept voluntary contributions from persons who receive services. This bill seeks to counter the effects of state and federal funding cutbacks to private organizations.

Your Committee has made one substantive amendment to the bill. The proviso in the proposed subsection (b) in the bill, as received, has been deleted. The State Foundation on Culture and the Arts has testified that the proviso is confusing and implies that an organization could deny services to a person who does not make contributions to the organization. The Foundation also has indicated that other provisions of the bill protect persons who cannot or will not make contributions. Your Committee has deleted the proviso to avoid any erroneous implication that a private organization may withhold services if a person does not make contributions.

In addition, your Committee has made technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 607, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 607, S.D. 2.

Signed by all members of the Committee.

SCRep. 595 Ways and Means on S.B. No. 1200

The purpose of this bill is to authorize the counties of this State to guaranty bank loans to bodies corporate and public instrumentalities created pursuant to state law and to aid and further the activities of and purposes for which such bodies corporate and public instrumentalities were created.

Your Committee adopted the recommendation of the bond counsel by substituting the words "body corporate and politic and public instrumentality" or the plural, for the words "body corporate or public instrumentality", or the plural, wherever they appear in the bill, to narrow the bill.

Your Committee also made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1200, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1200, S.D. 2.

Signed by all members of the Committee.

SCRep. 596 Ways and Means on S.B. No. 1251

The purpose of this bill is to repeal a section of the conveyance tax law which makes it illegal for any state employee to reveal information contained on a certification of conveyance of real property.

Your Committee finds that a measure identical to this bill was approved by the 1982 legislature; however, it was vetoed by the Governor who was concerned that repealing the confidentiality provision might discourage parties from making a full disclosure of the terms of a sale of real property. Your Committee finds that section 247-11, Hawaii Revised Statutes, provides that any person who knowingly makes a false declaration on any certificate or certificates required under the conveyance tax law shall be subject to either fines or imprisonment or both. Your Committee finds, therefore, that the fears expressed in the veto message on this proposal are unfounded.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1251, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1251, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 597 (Majority) Ways and Means on S.B. No. 1177

The purpose of this bill is to implement Article VII, section 12, of the Constitution of the State of Hawaii which authorizes counties to issue special purpose revenue bonds to finance manufacturing enterprises.

Your Committee finds that tax exempt bonds are important in aiding manufacturing development in the State. Your Committee further finds that it is in the public interest to allow the counties to issue such revenue bonds for manufacturing enterprises, and that granting counties such authority is a proper public purpose.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1177, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1177, S.D. 1.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 598 (Majority) Ways and Means on S.B. No. 755

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds for a total amount not to exceed \$30 million for the construction of an ethanol plant.

Ethanol is an indigenous source of liquid fuel that can reduce the State's dependence on imported petroleum. It can be produced from molasses, a by-product of sugarcane that has recently decreased in price, and can be used as an additive to gasoline. The sugar industry produces approximately 330,000 tons of molasses that can be converted into 23 million gallons of ethanol, or eight per cent of the State's gasoline supply.

Your Committee received testimony from the department of planning and economic development and the Hawaiian Sugar Planters' Association in support of this bill.

Your Committee has amended the bill to specify Hawaiian Development Company as the builder of the ethanol plant.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 755, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 755, S.D. 1.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 599 (Majority) Ways and Means on S.B. No. 827

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for Queen's Medical Center.

Queen's Medical Center was authorized two bond issues of \$60 million in 1981 and \$20 million in 1982. The Center began a construction project with the funds but encountered unexpected financial difficulties. The bill would provide the Center with financial assistance to help resolve those difficulties by authorizing a bond issue of \$20,000,000 for 1983.

Your Committee has amended the bill by allowing the Director of Finance to issue refunding special purpose revenue bonds.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 827, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 827, S.D. 2.

Signed by all members of the Committee.
Senators Fernandes Salling and Kawasaki did not concur.

SCRep. 600 (Majority) Ways and Means on S.B. No. 1178

The purpose of this bill is to implement Article VII, section 12, of the Constitution

of the State of Hawaii which authorizes the counties to issue special purpose revenue bonds to industries.

Your Committee finds that special purpose revenue bonds are important in aiding industrial development in the State. Your Committee further finds that it is in the public interest to allow counties to issue such bonds for industrial enterprises, and that granting counties such authority is a proper public purpose.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1178, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1178, S.D. 1.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 601 (Majority) Ways and Means on S.B. No. 857

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for Kaiser Foundation Hospitals.

The Kaiser-Permanente Medical Care Program is a federally qualified Health Maintenance Organization (HMO). As such, it is required to develop rates based on cost and to charge the same rates to every group or member with the same benefit package. All of its rates or reimbursements, whether it be rates to the government for Medicare or Medicaid reimbursement, or rates to Health Plan members or groups or even fees to non-plan patients are based on its cost. Therefore, any savings in interest expense is directly passed on, in the way of reduced increases in rates, to the consumer.

This bill authorizes the issuance of \$22 million in special purpose revenue bonds to finance construction of Kaiser Foundation Hospital's Moanalua Medical Center.

Your Committee has amended the bill to provide for the refunding of special purpose revenue bonds by the department of budget and finance when determined necessary for Kaiser Foundation Hospitals and other nonprofit health care facilities included in Act 16, First Special Session Laws of Hawaii 1981. Technical, nonsubstantive amendments were also made to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 857, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 857, S.D. 1.

Signed by all members of the Committee.
Senators Fernandes Salling and Kawasaki did not concur.

SCRep. 602 (Majority) Ways and Means on S.B. No. 995

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for the refunding of special purpose revenue bonds issued under Act 16, First Special Session Laws of Hawaii 1981, for Wahiawa General Hospital.

Your Committee has made the following amendments to the bill:

- (1) Section 1 has been amended by adding a statement that the refunding of special purpose revenue bonds is in the public interest and for the public health, safety, and general welfare;
- (2) The Department of Budget and Finance is authorized to issue special purpose revenue bonds for the refunding of any special purpose revenue bonds issued under Act 16, First Special Session Laws of Hawaii 1981, instead of exclusively for the refunding of the bonds issued for the Wahiawa General Hospital;
- (3) The specific amount of the special purpose revenue bonds which are authorized to be issued has been deleted. Instead, the Department of Budget and Finance is authorized to issue the principal amount determined necessary for such refunds; and
- (4) A statement has been added which requires the Department to comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized.

The Wahiawa General Hospital has testified that the bill, as received, could have resulted in a savings of approximately \$3 million. Thus, your Committee finds that other not-for-profit corporations which have utilized the proceeds of special purpose revenue bonds issued under Act 16 also should have the opportunity for savings through refunding those bonds with subsequently issued bonds sold at lower interest rates.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 995, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 995, S.D. 1.

Signed by all members of the Committee.
Senators Fernandes Salling and Kawasaki did not concur.

SCRep. 603 (Majority) Ways and Means on S.B. No. 1245

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for St. Francis Hospital.

The bill authorizes the department of budget and finance to issue \$43,320,000 in special purpose revenue bonds to be used for financing the construction of a new hospital facility in the Waipahu-Ewa area on Oahu. Your Committee has amended the bill by adding a new section to also authorize the department of budget and finance to issue refunding special purpose revenue bonds to refund the special purpose revenue bonds authorized in section 2 of the bill and those authorized in Act 16, First Special Session of Hawaii 1981. Your Committee has also changed the effective date to read "upon its approval" rather than "on July 1, 1983" and has made technical, nonsubstantive amendments to clarify the intent of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1245, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1245, S.D. 1.

Signed by all members of the Committee.
Senators Fernandes Salling and Kawasaki did not concur.

SCRep. 604 Ways and Means on S.B. No. 799

The purpose of this bill is to establish a means whereby pollution control projects for the disposal of solid waste can be financed by the counties through the issuance of special purpose revenue bonds.

Your Committee finds that sanitary landfills are a costly and inefficient method of disposing of the ever-increasing amounts of solid waste and that alternative methods of disposal must be pursued. The success of pollution control projects which also provide for waste recovery and cogeneration of electricity has been proven; however, the high costs of design and installation require financial assistance in the form of tax-exempt financing.

Your Committee has made minor, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 799, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 799, S.D. 1.

Signed by all members of the Committee.

SCRep. 605 Human Resources on S.B. No. 198

The purpose of this bill is to clarify the confidentiality of certain information and records of the Department of Social Services and Housing.

According to recent court decisions and the Attorney General's office, the law regarding confidentiality of records (§346-10) does not necessarily refer to social services, nor does it refer to cases of adult abuse and neglect unless the victims are elderly.

This bill would protect the department's records and confidential information regarding applicants for and recipients of social service benefits; protect the identity and location of foster care and adoptive homes when it is in the best interests of the child, other foster children in the home, or the foster parents not to have the

location of a child made known to the parents, guardians or other individuals; and provide for the confidentiality of all records of adult neglect and abuse.

Finally, this bill permits the disclosure of social service recipient information relevant to the operation of unlicensed adult day care facilities, in order to curb such illegal facilities and to substantiate legal actions brought against them.

Your Committee has amended the bill by adding a definition of "social services," which is currently undefined in the statutes for the purpose of clarifying the provisions of chapter 346.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 198, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 198, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 606 Health on S.B. No. 129

The purpose of this bill is to restructure the membership of the Board of Health to reflect the recent reapportionment of Hawaii's senatorial districts.

The present statute specifies that the Board be comprised of one member from each of the eight districts existing under the old apportionment structure, three member-at-large, and the Director of Social Services as an ex officio non-voting member, totalling eleven voting members.

Your Committee finds that to conform the language of the statute to the present apportionment structure of twenty-five senatorial districts would require the Board to have twenty-eight voting members, which would be impractical.

This bill provides that the Board be comprised of at least one resident from each of the four major counties, the rest of the eleven voting members to be appointed at-large, while the Director of Social Services remains an ex officio non-voting member. It also provides that the members shall serve without compensation but shall be reimbursed for expenses, including travel.

Upon further consideration, your Committee has amended the bill by including Kalawao among the counties represented on the Board.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 129, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 129, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 607 Legislative Management

Informing the Senate that S.C.R. No. 44 and Stand. Com. Rep. Nos. 608 to 610 have been printed and were distributed to the members of the Senate.

Signed by all members of the Committee.

SCRep. 608 Human Resources on Gov. Msg. Nos. 136, 137, 138 and 139

Recommending that the Senate advise and consent to the nominations of the following:

WILLIAM K. PACATANG to the Board of Social Services and Housing, for a term ending December 31, 1986;

RICHARD S. DUMANCAS to the Civil Service Commission, for a term ending December 31, 1986;

ODETTA FUJIMORI to the Hawaii Employment Relations Board, for a term ending December 31, 1986; and

JAMES BROWN to the Board of Trustees, Hawaii Public Employees Health Fund, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 609 Human Resources on Gov. Msg. No. 140

Recommending that the Senate advise and consent to the nominations of IRIS T. FUKUI and MICHAEL C.K. WONG to the Advisory Commission on Manpower and Full Employment, for terms ending June 30, 1986.

Signed by all members of the Committee.

SCRep. 610 Human Resources on Gov. Msg. No. 158

Recommending that the Senate advise and consent to the nomination of JAMES TAKUSHI as Director of Personnel Services, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 611 Agriculture on S.C.R. No. 44

The purpose of this concurrent resolution is to recognize national "Agriculture Day" and to designate March 21, 1983 as "Hawaii Agriculture Day."

Agriculture must be viewed as a fundamental resource. It is of critical importance to the State and its people for a variety of reasons. First, the agriculture industry has long been recognized and regarded as a mainstay of our Hawaiian economy. For many decades we have come to depend on this industry to provide us with not only agricultural products but a strong, dependable economic base as well. Secondly, agriculture is compatible with our "open space" Hawaiian lifestyle. Thirdly, agriculture complements our visitor industry by helping to maintain an aesthetically attractive natural environment. And finally agriculture is a major policy concern as mandated by the Constitution of the State of Hawaii.

For these reasons it is necessary for Hawaii's citizens to understand and support agriculture in the role it plays in our modern day society.

Your Committee finds that the State should join the Agriculture Day Foundation which is coordinating the national "Agriculture Day" celebration under the 1983 theme "Agriculture: America's Heartbeat," and designate March 21, 1983 as "Hawaii Agriculture Day" so Hawaii's people may participate with the nation in recognizing and acknowledging the importance of agriculture.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 44 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 612 Agriculture on S.R. No. 56

The purpose of this resolution is to recognize national "Agriculture Day" and to designate March 21, 1983 as "Hawaii Agriculture Day."

Agriculture must be viewed as a fundamental resource. It is of critical importance to the State and its people for a variety of reasons. First, the agriculture industry has long been recognized and regarded as a mainstay of our Hawaiian economy. For many decades we have come to depend on this industry to provide us with not only agricultural products but a strong, dependable economic base as well. Secondly, agriculture is compatible with our "open space" Hawaiian lifestyle. Thirdly, agriculture complements our visitor industry by helping to maintain an aesthetically attractive natural environment. And finally agriculture is a major policy concern as mandated by the Constitution of the State of Hawaii.

For these reasons it is necessary for Hawaii's citizens to understand and support agriculture in the role it plays in our modern day society.

Your Committee finds that the State should join the Agriculture Day Foundation which is coordinating the national "Agriculture Day" celebration under the 1983 theme "Agriculture: America's Heartbeat," and designate March 21, 1983 as "Hawaii Agriculture Day" so Hawaii's people may participate with the nation in recognizing and acknowledging the importance of agriculture.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 56

and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 613 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.R. No. 56 and Stand. Com. Rep. Nos. 611 and 612 on March 16, 1983; and

S.C.R. Nos. 45 to 47 and S.R. No. 57 to 49 on March 18, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 614 Legislative Management

Informing the Senate that S.C.R. No. 48 has been printed and was distributed to the members of the Senate on March 21, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 615 Legislative Management

Informing the Senate that S.C.R. No. 49 and S.R. No. 60 have been printed and were distributed to the members of the Senate on March 22, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 616 Legislative Management

Informing the Senate that S.R. Nos. 61 and 62 and Stand. Com. Rep. Nos. 617 and 618 have been printed and were distributed to the members of the Senate on March 23, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 617 Human Resources on H.B. No. 1179

The purpose of this bill is to require the preparation of a human services functional plan.

Your Committee has amended the bill by requiring the preparation of a "human resources" functional plan, instead of a "human services" functional plan. To your Committee, the term "human resources" connotes a combination of employment-related programs and human services programs. Thus, by making this amendment, your Committee has broadened the scope of the proposed new functional plan. Your Committee intends that employment-related programs include, but not be limited to: public and private placement services and employment training programs; apprenticeship programs; wage standards and fair employment practices; occupational safety and health standards; countercyclical public employment programs; promotion of private employment opportunities and increase of the number of jobs; unemployment compensation; workers' compensation; temporary disability insurance; and prepaid health insurance.

Your Committee has made the amendment for two primary reasons. First, employment and human services programs are interrelated and must be addressed as one. Second, employee benefits are important to the quality of life, but may have consequences detrimental to employers and the overall economy if too onerous.

The need for human services programs, to a large extent, is a variable of employment. A downturn in the economy and loss of employment leads to an increase in the number of persons who require human services to meet their basic needs. Such an increase usually has either of two results: public resources become strained as more funding is provided for human services at the time tax revenues lag; or sufficient funding cannot be made available to assist all of the truly needy, and some suffer harshly because of no or only minimal support. Thus, employment and human services are interrelated to such a degree that both must be addressed in a comprehensive and coordinated manner.

Employee benefits, such as health insurance, work and nonwork disability insurance, retirement benefits, and unemployment compensation benefits, are important to the quality of life. The availability of these benefits assures that an employee will not suffer to a large extent financially during ill health, while temporarily unemployed, or after retirement. The cost of such benefits, however, increases the cost of doing business. In times of economic problems, even the most marginal costs can affect the ability of the State's businesses to compete with others outside the State. Your Committee finds that the State must address the competing demands of the importance and necessity of employee benefits to maintain and improve the quality of life and the importance and necessity of containing the cost of doing business in the State to promote the economy.

Your Committee also has made the Department of Social Services and Housing and Department of Labor and Industrial Relations jointly responsible for reporting on the progress of the human resources functional plan. Each department has joint responsibility over portions of the functional plan. Thus, a joint progress report would be more desirable than a report only from the Department of Social Services and Housing.

Your Committee notes that this bill does not specify the state agency which will prepare the human resources functional plan. Your Committee is confident that the Department of Planning and Economic Development and Policy Council will make the appropriate choice in this regard. Your Committee, however, emphasizes that the Department of Social Services and Housing and Department of Labor and Industrial Relations are to cooperate closely, no matter which state agency is given the responsibility to prepare the functional plan.

Your Committee also has amended the purpose section of the bill to conform to the other amendments. In addition, technical, nonsubstantive amendments have been made.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1179, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1179, H.D. 1, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senators Holt and Kuroda.

SCRep. 618 Consumer Protection and Commerce on H.B. No. 276

The purpose of this bill is to require insurers to pay all examination expenses into the state general fund.

Under current law, the insurer being examined is required to remit payment of examination expenses to the examiners themselves. However, in practice insurers have been requested by the Insurance Division of the Department of Commerce and Consumer Affairs to remit payments to the State General Fund, a practice implemented to keep the examination account in line with the general budgetary procedures applicable to all State agencies.

Your Committee received testimony in support of this measure from the Department and notes that the examiners, being civil service employees, are paid salaries from the general fund.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 276, 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 Senator Yamasaki.

SCRep. 619 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Gov. Msg. Nos. 219 to 254, S.C.R. No. 50, S.R. No. 63 and Stand. Com. Rep. Nos. 620 to 676 on March 24, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 620 Government Operations and County Relations on H.B. No. 670

The purpose of this bill is to provide emergency financial assistance to the County of Kauai.

The damage that Hurricane Iwa inflicted on the island of Kauai was extensive. Based on damage claims submitted by individual agencies to the Federal Emergency Management Agency (FEMA), the estimated replacement value of losses to county property on Kauai is approximately \$6 million. Although FEMA will pay for seventy-five per cent of the cost of replacing damaged and destroyed property, the county is required to put up the remaining twenty-five per cent, which will amount to about \$1.5 to \$2 million.

According to federal regulations, all repair work must be completed within 18 months of the disaster. Therefore, Kauai must act expeditiously to ensure completion of all repair and reconstruction.

Your Committee finds that the county is not in a position to meet its share of the cost because of severely reduced revenues caused by Hurricane Iwa. For example, revenues from tourism and agriculture have declined due to the loss of visitors in the wake of the hurricane and substantial crop damage. Your Committee further finds that the State has a responsibility in this extraordinary situation to furnish immediate emergency assistance to the county of Kauai. This bill provides such assistance.

Your Committee upon consideration of this measure amended the bill by changing the amount appropriated to \$2,000,000, and by providing that the money be expended for fiscal years 1982-1983 and 1983-1984.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 670, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 670, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 621 Government Operations and County Relations on H.B. No. 1237

The purpose of this bill is to exempt out-of-state bicycles from having to be licensed in the State provided that the bicycle displays a license for the current year as required by the law of the state or county in which the bicycle tax has been paid.

Your Committee finds that the requirement to have out-of-state bicycles licensed for short periods is not practical, when they are already licensed in another state or country. Events such as the Ironman Triathlon, and bicycle touring where the bicyclists are here for only a few days, are activities which benefit from this bill. The bill would also provide short-term relief for Hawaii visitors who bring their bicycles into the State.

Your Committee amended the bill for the purposes of conformance with recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 1237, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1237, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 622 Government Operations and County Relations on H.B. No. 992

The purpose of this bill is to transfer the authority to determine the penalties and fees for unlicensed and stray dogs as well as the impoundment fees from the State to the Counties. The bill also provides that a parent or guardian shall be responsible for compliance with the laws pertaining to the licensing and regulation of dogs when the owner is a minor, and clarifies the definition of officer.

Currently, the counties are responsible for apprehending stray dogs and maintaining shelters for their impoundment while the State determines the fees and penalties. This bill would transfer the responsibility for the setting of fees and penalties to the counties.

Your Committee also agrees with the need to clarify the responsibility of a parent or guardian where the owner of a dog is a minor and to clarify the definition of "officer".

Your Committee received testimony from the City Council of the City and County of Honolulu recommending that the bill be amended by including an amendment to Section 143-4 to allow the counties to set the fee for issuing dog tags. Your Committee has accepted the recommendation and amended the bill accordingly.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 992, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 992, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 623 Government Operations and County Relations on H.B. No. 1090

The purpose of this bill is to clarify the law relating to pool buying agreements between liquor licensees from different counties.

Under current statutory provisions, liquor licensees are allowed to pool buy their liquor purchases. Smaller retailers as a group can purchase large quantities of liquor at lower costs and better compete with the large establishments.

Your Committee received testimony from the Retail Liquor Dealers Association of Hawaii expressing concern over a situation which arose in a pool buying transaction between licensees of Hawaii County and Honolulu. A pool buy transaction between Honolulu and Hilo was ruled illegal by the Hawaii County Liquor Commission because the transaction was not considered completed until the product was actually in the licensee's warehouse in Hilo. The Honolulu Commission's position was that the transaction was completed when the product was in the possession of the trucking firm with the licensee as the consignee. This bill would clarify the law by stating that a pool buying transaction would be completed once the product is in the possession of the transporting company.

Your Committee amended the bill to make a technical change to conform to recommended drafting style and to correct a typographical error.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 1090, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1090, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 624 Judiciary on H.B. No. 1119

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

Your Committee amended the bill to include an additional claim, submitted by the Attorney General, in the amount of \$10,000. Also pursuant to a recommendation by the Attorney General, the bill was amended by deleting the heading of claims under Chapter 662, Hawaii Revised Statutes, and placing those items under the heading of Judgments Against the State and Settlement Claims.

As amended, the total amount appropriated by the bill is \$289,692.19.

Your Committee made other technical nonsubstantive amendments, including a clarification regarding payments of interest.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1119, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1119, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 625 Judiciary on H.B. No. 387

The purpose of this bill is to appropriate funds for the Judiciary for the 1983-1985 biennium.

Your Committee amended the bill to reduce the appropriations for fiscal year 1983-1984 from \$36,192,465 to \$35,895,831, and for fiscal year 1984-1985, from \$38,643,858 to \$37,242,719. The appropriation of \$17,870,000 for the fiscal biennium for capital improvement projects remains unchanged.

Your Committee also provided funds to aid in the prevention of juvenile delinquency through diversion activities programs, including a trial program for hard-core juvenile delinquents, Vision Quest. In addition, your Committee appropriated funds to expand programs of private agencies providing alternatives to incarceration for adult offenders.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 387, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 387, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 626 Judiciary on H.B. No. 791

The purpose of this bill is to provide a second law clerk for each of the three judges of the intermediate appellate court and for the administrative judge of the district court of the first circuit.

During the 1982 Session, the Legislature authorized a second law clerk for intermediate appellate judges, however the bill was vetoed because it contained an appropriation and was passed before the supplemental budget bill.

Additional law clerks for the intermediate appellate court will decrease the time in which cases can be resolved. On the average, the judges issue a written decision every three and a half working days. Efficiency can be increased with the addition of more staff.

A law clerk for the administrative judge of the district court of the first circuit will provide a basic research capability for the busiest of the district courts. There are presently no law clerks for any of the district judges.

Your Committee made technical nonsubstantive changes to the form of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 791, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 791, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 627 Judiciary on H.B. No. 781

The purpose of this bill is to require that jurors be paid mileage when traveling from court.

Presently, Section 612-8, Hawaii Revised Statutes, sets payment for jurors, at 20 cents per mile traveled to court, however it is silent as to payment for mileage from court.

Your Committee finds that justice will be served by reducing some of the financial burdens of jury duty. This is especially true in very long trials.

Recognizing that jury duty may cause financial difficulties, your Committee amended the bill to increase the standard rate of pay from \$20 to \$30, at least equal to the minimum wage based upon an eight-hour day.

Your Committee also amended the bill to authorize the court to increase or decrease compensation when appropriate. This will give the court flexibility in cases where the juror does not work, or works only part-time.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 781, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 781, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 628 Transportation on H.B. No. 330

The purpose of this bill is to vest sole authority for the planning, designing, and construction of airport facilities, with the Department of Transportation (DOT). Further, the bill authorizes the DOT to acquire excess federal lands as permitted by the Federal Aviation Act of 1958.

Current statutes vests the authority for airport construction with the Department of Accounting and General Services (DAGS). However, DAGS has delegated this authority to the DOT for many years.

Your Committee finds that the airports division of the DOT has developed special expertise relative to Hawaii's airport system and is in the best position to coordinate development in this area. Your Committee further finds that clear authority over airport construction should lie with the DOT.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 330 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 629 Housing and Urban Development on H.B. No. 314

The purpose of this bill is to allow the Hawaii Housing Authority to issue up to \$75 million in taxable revenue bonds to finance the acquisition of the fee title to leasehold properties converted under the Land Reform Program.

The Authority has converted approximately 5,500 leasehold lots and there are currently 7,100 lots in the conversion process. The Authority estimates that approximately \$225 million will be needed to finance the lots undergoing conversion and \$55 million will be needed to finance the lots already converted as most are under short-term agreements of sale with landowners.

For a variety of reasons, relatively few loans have been made by local lenders to lessees to finance the purchase of the leased fee interest. The primary reason is the inability of the lenders to "sell" these loans in the secondary market. Although the Federal National Mortgage Association (FNMA), a secondary market purchaser, has recently initiated a direct purchase program, it is too soon to predict whether this FNMA program will be acceptable to lenders. The program established by this bill is viewed as a "stand-by" to be initiated if local lenders and FNMA do not provide the funds needed to make loans to lessees.

The Authority will serve as a conduit between lenders and the securities marketplace. Newly originated mortgage loans will be packaged into a taxable mortgage security which will be sold to investors throughout the United States. These investors will serve to provide new capital funds needed for the implementation of leasehold conversions.

According to Salomon Brothers, Inc., investment banker to the Authority, this program will have no direct effect upon the State's ability to raise moneys from the sale of general obligation bonds or revenue bonds because taxable securities, as opposed to tax-exempt securities, will be issued: the State and the Authority are competing for two distinct segments of the bond market.

Your Committee has amended the bill by amending section 516-33.5, Hawaii Revised Statutes, to allow the Hawaii Housing Authority (HHA) to collect deposits from lessees at the time they apply to purchase the fee simple title to their residential leasehold properties. Currently, the statute prohibits the Authority from collecting the deposits made by the lessees more than one hundred eighty days prior to the date of condemnation. Since the statutes prohibit the HHA from collecting deposits at the time the applications are received, the Authority must advance any costs incurred until it determines that the condemnation action will occur within six months. The conditioning of the payment of the deposit on a future event is an ambiguous construction of statutory drafting; thus, your Committee has amended the bill to allow

the collection of deposits when applications are received.

The Land Reform Program is intended to be self-supporting, as is expressed in section 516-32, Hawaii Revised Statutes. Your Committee has also amended section 516-33.5, to allow deposits to be applied to "any other cost" the Authority has incurred, such as administrative overhead. The Authority has informed the Committee that during the period from the receipt of application to the date of condemnation, ten per cent to fifteen per cent of the applicants may withdraw their applications. This has resulted in an increase of the pro rata cost for expenses incurred which must be distributed among the remaining lessees. This amendment clarifies that these deposits may be applied for administrative and other costs incurred, to assure that those lessees who drop out are assessed their fair share, and that the Authority is reimbursed for these costs.

The February 1982 Legislative Auditor's Management Audit of the program indicated that recent charges to applicants who had withdrawn were greater than charges previously made to lessees who had completed the entire conversion process. While the Authority has recently established more fiscal control to more accurately quantify the administrative costs of the program, your Committee is concerned that lessees who withdraw may not be willing to pay the pro rata costs incurred up until the time of their withdrawal, which costs may exceed the amount of the deposit. Thus, your Committee has amended section 516-33.5, Hawaii Revised Statutes, to provide that the \$500 statutory limit on the deposit be eliminated. This amendment will not automatically raise the deposit amount; rather it will provide the Authority with the flexibility to raise the limit by rule rather than by a required future statutory amendment. The intent of this amendment is to assure that the deposit amount (to be established by the Authority pursuant to the Administrative Procedure Act), is sufficient to cover the pro rata incurred costs of those who withdraw prior to condemnation. Although the lessees may view this increase in the amount of the deposit as a hardship, the increase will protect them from those who withdraw.

Section 516-33.5, Hawaii Revised Statutes, has also been amended to provide that the Authority shall incur no liability for any of the deposits collected. This provision also was addressed in the Auditor's Report, and this amendment clarifies the Authority's position with regard to these funds.

Your Committee has also amended the bill by amending section 516-44, Hawaii Revised Statutes, to provide that any interest earned on moneys deposited by the lessees into the fee simple residential revolving fund shall accrue to the lessees. All other moneys in the fund shall be used for administrative costs.

Minor grammatical amendments also have been made.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 314, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 314, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 630 Housing and Urban Development on H.B. No. 710

The purpose of this bill is to amend Section 516-33, Hawaii Revised Statutes, to preclude the value determined by the Hawaii Housing Authority for the leased fee interest in a lot and any financial information on the lessee the Authority may obtain during the qualification procedures defined by this section from being discoverable or admissible in a Chapter 516 eminent domain action. The bill also amends Section 516-24, Hawaii Revised Statutes, by changing the date compensation is determined.

Currently, the amount set by HHA for the leased fee interest is computed from offers, appraisals, and other documents and opinions rendered during the preliminary negotiations. In conjunction with H.B. No. 708, H.D. 1, your Committee concludes that this information should be precluded from the evidence in a Chapter 516 condemnation suit, to facilitate open and honest discussion between the lessors and lessees.

Your Committee further finds that the information supplied by the lessee to support his ability to qualify for and finance the purchase of the fee interest is confidential in nature and has no direct bearing on a Chapter 516 eminent domain proceeding.

The proposed amendment to Section 516-24, Hawaii Revised Statutes, would change the date compensation is determined from the date of designation of the applicable

portion of the tract to the date of the summons of the complaint in eminent domain. This amendment would bring the assessment date of Chapter 516 condemnation actions into parity with the existing eminent domain statute under Section 101-24, Hawaii Revised Statutes.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 710, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 710, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 631 Housing and Urban Development on H.B. No. 817

The purpose of this bill is to provide more flexibility by allowing the maximum qualifying income limits under the Hula Mae program to be increased according to a prescribed formula if the annual interest rate on the Hula Mae loan exceeds ten per cent.

The intent of the bill is to allow qualification restrictions to be more sensitive to market forces, rather than be arbitrarily fixed and insensitive to relative demand.

Under this bill, the Hawaii Housing Authority may raise Hula Mae program income limits by three and one-half per cent for every one-half percentage point increase over an annual interest rate of ten per cent.

Your Committee finds that the Authority should be allowed to raise the income limits by four per cent rather than three and one-half per cent and that the changes to the law proposed by this bill are more appropriately effected by amending subsection (b) rather than subsection (a) of Section 356-206, Hawaii Revised Statutes. The bill has been amended accordingly.

The bill has been further amended to delete the present requirement in Section 356-206(b) that the adjusted household income of a family of one not exceed one hundred per cent of the median income for a family of four and by adding a provision allowing the Authority to adjust the income requirements for families with other than four persons.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 817, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 817, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 632 Housing and Urban Development on H.B. No. 1061

The purposes of this bill are to (1) provide general excise tax exemptions to persons and entities who contribute toward the development, construction, or occupancy of government assisted housing; and (2) to provide that for a nonprofit organization qualified under federal housing law, the income earned and obligations issued which are declared to be exempt from federal taxation shall also be exempt from all state taxation.

More specifically, the bill does the following:

(1) Expands the general excise tax exemption (currently enjoyed only by construction contractors) to include all participants who contribute toward the planning, design, financing, construction, sale, lease, or rental of government assisted housing;

(2) Expands the applicability of qualifying housing (from only multi-unit property) to single family, multiple-unit, or mixed use residential property;

(3) Expands the program applicability (from three specifically cited outdated federal programs) to all state and federal government assistance programs, to obviate continual statutory amendment in accommodating future federal public law and federal rule amendments;

(4) Provides for the verification of claims by the Hawaii Housing Authority (HHA) (such claims will be reviewed by the HHA to verify that eligible entities applying for such exemptions are receiving government assistance for the development, construction, financing, sale, lease, or rental of housing projects; it is not the intent of your Committee to duplicate or infringe upon the statutory powers and duties of the Department of Taxation, but to assist that Department's operations with the Authority's expertise); and

(5) Amends the existing general excise tax exemption authority provided to the Hawaii Housing Authority for clarity and consistency with the amendments of section 237-29, Hawaii Revised Statutes.

These provisions are desirable, not only to decrease the cost of deliverable government housing, but to stimulate private sector participation in government-assisted housing development. Private sector participation is an integral element in federal and state housing programs. This is best exemplified in the processes and requirements of the federal Section 8 housing assistance program which requires private sector housing development for government housing targets in specific areas. These government assistance programs, however, are in some instances insufficient to foster wide participation and acceptance by the private sector due to current economic and housing market conditions. Additionally, private sector development of rental housing is almost nonexistent due to high capital and production costs, and for this reason, government assistance is highly desirable.

To alleviate private sector nonparticipation, housing development incentives are necessary. We must attract competent development entities to participate in existing government housing assistance programs. The incentives contained in this bill are designed to further reduce the price consumers pay for government assisted housing.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1061, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1061, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 633 Housing and Urban Development on H.B. No. 1231

The purpose of this bill is to amend Section 15 of Act 278, Session Laws of Hawaii, Regular Session of 1982, by deleting the repeal date of December 31, 1983.

Act 278 allows the Hawaii Housing Authority (HHA) to issue tax exempt revenue bonds under the Hula Mae Program to finance home mortgage loans. Under Federal law, the floating of tax-exempt bonds for housing purposes will be disallowed on December 31, 1983, if Congress does not act to amend the federal Mortgage and Subsidy Bond Tax Act of 1980. Your Committee has been informed that Congress may pass an extension to allow the issuance of bonds beyond the end of this year. HHA intends to take full advantage of the maximum amount of bonds which the federal government will allow to be issued this year (\$200 million). Amending this provision in Act 278 will allow the Authority to continue to float bonds in 1984 if Congress decides to grant an extension.

Act 278 also includes several "housekeeping" amendments relating to the payment and security of revenue bonds; hence, the establishment of the repeal date further creates a technical error in that all other provisions of the Act necessary to the Hula Mae Program will also terminate. Regardless of the decision Congress may render with regard to an extension to the federal Mortgage and Subsidy Bond Act of 1980, HHA will continue to operate the Hula Mae Program with existing bond proceeds. However, if the amendments proposed in this bill are not enacted, the Authority will not be able to operate the program since essential provisions relating to operating definitions and rules will be repealed.

Your Committee has amended this bill by making a technical, nonsubstantive change.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1231, H.D. 1, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 1231, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 634 Agriculture on H.B. No. 1579

The purpose of this bill is to add a new section to Chapter 171, Part V, Hawaii Revised Statutes, to establish an agricultural park revolving fund within the Department of Land and Natural Resources.

Under present law the Board of Land and Natural Resources has authority to lease private property for agricultural park purposes. When privately-owned lands are leased by the State and then subleased to farmers, the moneys received from the farmers are used to pay the rent due the private landowners and to take care of administrative and other related costs. Testimony received by your Committee indicates that in the absence of such a revolving fund, the Department of Land and Natural Resources has to secure an appropriation in order to pay the rent because sublease rentals are required to be deposited into the State's general fund.

This bill will amend current law by allowing the Department of Land and Natural Resources the authority to establish an agriculture park revolving fund. This will enable the department to receive rental moneys from farmers and pay rent due the private landowners, as well as taking care of administrative costs. Your Committee's intent is for this revolving fund to also provide for all purposes related to the agriculture park system including building and maintenance of roads, water, and other related items.

Your Committee has amended the bill by deleting the "drop dead" provision in Section 3 which would have repealed the statutory authority for the revolving fund as of June 30, 1985.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1579, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1579, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 635 Agriculture on H.B. No. 1190

The purpose of this bill is to appropriate funds for emergency loan relief to qualified farmers whose farm operations have been damaged by Hurricane Iwa.

While the Farmers Home Administration (FmHA) has implemented its disaster loan program to assist Kauai and Oahu farmers who suffered losses from Hurricane Iwa, it appears that there may be gaps in meeting qualified farmers' financing requirements. Should there be a significant number of non-qualifiers with FmHA, the State's emergency loan program will have to be activated.

The Agricultural Loan Program is sorely in need of additional moneys. The extent of recent losses to diversified agriculture makes it imperative that financial aid be provided expeditiously.

Your Committee has amended this bill by deleting the language which refers specifically to farm operations damaged by Hurricane Iwa. Your Committee recognizes the substantial monetary loss sustained by farmers due to Hurricane Iwa and wishes to provide loan funds as expeditiously as possible. However, your Committee does not wish to develop the need to pass specific loan appropriation legislation every time a natural disaster occurs. It is your Committee's intent to allow the Board of Agriculture to declare the necessity of emergency funding when the need for this funding is recognized, as is within the powers given to them in Section 155-9, Hawaii Revised Statutes.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1190, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1190, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 636 (Majority) Agriculture on H.B. No. 45

The purpose of this bill is to appropriate funds for research necessary to keep the Hawaiian sugar industry economically viable.

Your Committee finds that the \$3 million appropriated by the Legislature in 1982 for sugar research has greatly assisted the sugar industry in minimizing its losses by offsetting the direct costs of research. Your Committee's intent is to provide funds for continuing this research in accordance with the budget passed by the 1983 Legislature.

Your Committee has amended this bill by changing the appropriating agency from the Department of Agriculture to the Governor's Agriculture Coordinating Committee.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 45, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 45, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 637 Consumer Protection and Commerce on H.B. No. 81

The purpose of this bill was to provide information to assist the Department of Taxation in enforcing the collection of general excise taxes.

Under current law, a four per cent tax on gross rents received from rentals of real property located in the State is imposed; however, testimony by the Director of Taxation reveals that the State is losing large amounts of revenue as a result of out-of-state owners of real property failing to pay general excise taxes on rents collected. Enforcement is laborious because the Department of Taxation has difficulty identifying and locating property owners. \$200,000 in revenues was recovered by the Department last year during a two-month enforcement period.

Many out-of-state owners of real property as well as local owners employ an agent to collect rentals from real property. In order to provide the Department of Taxation with information on rentals collected by such owners, this bill proposes to require the filing of a copy of the first page of the rental collection agreement which includes the name, address, social security number, general excise tax license number of the property owner, the address of the property rented, and a statement in ten-point bold print indicating that a copy of the first page of the agreement shall be filed with the Department of Taxation and that the owner must pay general excise taxes on the gross rent collected. The House draft of this bill provided that in lieu of the first page of a rental collection agreement, a copy of Internal Revenue Service form 1096 or 1099, the property owner's social security number and general excise tax license number may be filed with the Department.

Your Committee received testimony from the Director of Taxation in support of this bill which will provide the Department with assistance in enforcing compliance with the general excise tax laws.

Your Committee has amended this bill by deleting federal IRS form 1096 as an allowable alternative to filing a copy of the first page of a rental collection agreement. Your Committee notes that this form is a summary and transmittal of U.S. information returns which indicates to the IRS which forms are being filed.

Your Committee has further amended the bill by adding a penalty provision for violations and by substituting the words "entering into" for the word "completing" on page 3, line 16 of the bill as received by your Committee. The latter amendment is for the purpose of clarity and has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 81, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 81, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Cayetano and Toguchi.

SCRep. 638 Consumer Protection and Commerce on H.B. No. 207

The purpose of this bill was to codify into a single chapter the authority and responsibility of the Division of Measurement Standards and place the Division under the Board of Agriculture.

Currently, Chapters 486, 486A, 486D and 292, Hawaii Revised Statutes, relate to measurement standards and in several cases, overlap. Recodification would eliminate redundancy and group present legislative mandates under a new Chapter 486.

Your Committee received testimony from the Chairman of the Board of Agriculture, the Director of the Department of Health, and the Hawaii Food Industry Association in support of this measure stating that it will eliminate the overlap in areas of enforcement between the Division which is under the Department of Agriculture, and the Food and Drug Branch of the Department of Health.

Upon consideration of this measure and review of the extensive legislative history of the administration of weights and measures your Committee finds that it is in the best interests of the general public to transfer the responsibilities of measurement standards to the Department of Commerce and Consumer Affairs. The administration of the regulations by the Department would result in simplification of operational procedures and more efficient service. Therefore, the bill was amended to give the Department authority to enforce the provisions of this measure. It is your Committee's intent that this significant change in the organizational placement of the measurement standards functions to the Department of Commerce and Consumer Affairs should not be subsequently altered without having received prior concurrence of this Committee.

The bill was further amended by making technical changes which have no substantive effect.

Your Committee is aware that merging activities into a single agency may create complex logistical problems with amending and consolidating rules and allocating resources, therefore, your Committee is developing resolutions to request the Legislative Auditor to prepare a study addressing these concerns.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 207, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 207, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Cayetano and Toguchi.

SCRep. 639 Consumer Protection and Commerce on H.B. No. 275

The purpose of this bill is to consolidate the Insurance Commissioner reports which are required under the provisions of Chapter 294 and 431, Hawaii Revised Statutes.

Currently, the Insurance Commissioner is required to prepare and submit an annual report to the Legislature on the motor vehicle insurance program. The Commissioner is also required to publish an annual report on all insurance activities in the State.

Your Committee notes that Act 86, Session Laws of Hawaii 1980, merged the Motor Vehicle Insurance Division into the Insurance Division of the Department of Commerce and Consumer Affairs. Prior to the passage of Act 86, the Insurance Division and the Motor Vehicle Insurance Division were separate divisions and as such, submitted separate reports. With the merger of the divisions, a single consolidated report covering all the operations of the Insurance Division appears warranted.

Your Committee received testimony from the Department in support of this bill stating that in view of the duplicative effort and costs involved, it would be more efficient for the Commissioner to consolidate the information on insurance activities and to submit one annual report to the Legislature.

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

Signed by all members of the Committee.

SCRep. 640 Consumer Protection and Commerce on H.B. No. 278

The purpose of this bill was to increase the time period between filing of casualty and fire insurance rate increases and the effective date of such increases from fifteen to thirty days.

Under current law an insurer must file proposed rate increases with the Insurance Commissioner and the rate increase cannot become effective for at least fifteen days after filing with the Commissioner. If the Commissioner needs more time to consider the filing, the waiting period may be extended another fifteen days. The Commissioner may also authorize a rate increase to become effective prior to the expiration of the original or an extended waiting period. Although rate filings are public records, there is no specific requirement for insurers to give prior notice to their insureds of a filing for a rate increase.

Your Committee received testimony from the Insurance Division of the Department of Commerce and Consumer Affairs in support of this measure stating that the technological and logistical requirements of rate review necessitated the additional time.

Your Committee amended the bill by incorporating the substance of S.B. No. 790, which received testimonial support from several competent organizations and addresses the same general subject matter as this bill. Therefore, this bill now includes the following:

1. Provisions for prior notice to insureds of casualty and fire insurance rate increases.
2. Withdrawal of the Insurance Commissioner's powers to allow a filing to become effective retroactively.

Your Committee also made technical changes for the purpose of conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 278, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 278, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 641 Consumer Protection and Commerce on H.B. No. 1018

The purpose of this bill is to permit the establishment of international banking facilities in Hawaii.

Your Committee finds that international banking facilities would promote foreign investment in the state, particularly from Asia, and enhance Hawaii's objective of becoming a Pacific-Asian trade and business center.

Your Committee received testimony from the Department of Taxation, the Department of Planning and Economic Development and other interested parties in general support of this measure which would promote Hawaii as a leading center for international commerce and finance in the Pacific. Further, international banking facilities would not pose a competitive threat to Hawaii based financial institutions inasmuch as they cannot engage in domestic banking transactions and are only allowed to handle international business with foreign individuals and corporations.

Your Committee has amended the bill to correct an error in numbering sections and to make technical amendments which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1018, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1018, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter, Cayetano and Toguchi.

SCRep. 642 Hawaiian Programs on H.B. No. 702

The purpose of this bill is to appropriate moneys from the general fund to supplement the operational budget of the Office of Hawaiian Affairs (OHA).

Your Committee finds that it is necessary to continue current level general fund support for OHA so that it may continue its level of services for the Hawaiian people.

Your Committee has amended the bill by incorporating the figures contained in S.B. No. 7, S.D. 1 with respect to the Office of Hawaiian Affairs' general fund budget request. Your Committee has also deleted reference to "each and every expenditure" as it relates to matching funds.

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

Signed by all members of the Committee.

SCRep. 643 Hawaiian Programs on H.B. No. 236

The purpose of this bill as received by your Committee was to clarify and correct inconsistencies in sections 213 and 225, Hawaiian Homes Commission Act, relating to funds for deposit of money earned through investments.

Your Committee has amended the bill to delete the changes to the Act proposed by the bill as originally drafted and utilizing the bill to make certain changes to the Hawaiian home loan fund and the Hawaiian home general loan fund so those funds may be more effectively utilized for accomplishing the purpose of the Hawaiian Homes Commission Act. The amended bill makes the following changes to the Hawaiian home loan fund and Hawaiian home general loan fund:

- 1) Raising the ceiling on the Hawaiian home loan fund from \$5,000,000 to \$10,000,000.
- 2) Stipulating that the Hawaiian home general loan fund be used solely for the construction of homes.
- 3) Providing that any amount of the Hawaiian home administration account which is in excess of the amount approved by the Legislature shall be transferred to the Hawaiian home general loan fund.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of H.B. No. 236, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 236, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 644 Hawaiian Programs on H.B. No. 1207

The purpose of this bill is to amend Section 10-3, Hawaii Revised Statutes, to conform to the Hawaii State Constitution and to appropriate additional funds for this purpose.

Under current law the Office of Hawaiian Affairs (OHA) is entitled to a pro rata portion of moneys from the public land trust fund. Section 10-3, Hawaii Revised Statutes, specifies that the proceeds and income derived from lands conveyed by Sections 5(b) and 5(e) of the Admission Act are to be placed in the public land trust fund. However, those lands conveyed by Public Law 88-233, which are also a part of the public land trust, are not included under the existing law.

Your Committee finds that requirements of the State Constitution provide that lands conveyed to the State by the Admission Act shall be held by the State as a public trust and that a pro rata portion of the income and proceeds from the trust shall be managed and administered by OHA. By including lands conveyed by Public Law 88-233, this bill will conform Chapter 10, Hawaii Revised Statutes, to the State Constitution. The effect of the bill would be to assign additional revenues to the public land trust, and would result in additional revenues to OHA under its entitlement.

Your Committee has amended the bill to provide that lands to which title was vested in the State pursuant to Section 5(a) of the Admission Act be made a part of the public land trust. In this connection, your Committee notes that Report No. 83-13 of the Legislative Auditor (Program Report on the Public Land Trust) suggests that including Section 5(a) lands as part of the public land trust would greatly simplify

accounting for revenues of public land trust lands and would be equitable.

Your Committee has further amended the bill by increasing the sum appropriated to the Office of the Legislative Auditor to complete the study of issues relating to the land trust from \$100,000 to \$200,000.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of H.B. No. 1207, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1207, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 645 Health on H.B. No. 1148

The purpose of this bill is to exempt hospital quality assurance committees and specialty societies from judicial discovery proceedings.

Under present law, the proceedings and records of peer review committees of medical, dental, and optometric staffs in hospitals having the responsibility of evaluation and improvement of the quality of care in the hospital and peer review committees of medical, dental or optometric societies are not subject to discovery. The present law is unclear, however, whether this same protection is extended to specialty societies in these professions and to hospital quality assurance committees.

Your Committee finds that hospital quality assurance committees, which have been created in hospitals to conform to requirements of the Joint Commission on Accreditation of Hospitals, need this same protection to ensure high quality medical services and promote better communication between medical and hospital staffs through joint participation in patient care monitoring and assurance programs.

Your Committee further finds that peer review committees of specialty societies perform useful services in helping to ensure that patients receive high quality medical, dental and optometric services. Such committees can only function effectively if their records are protected as provided by this bill.

Your Committee has amended the bill by deleting as surplusage, references to "hospital quality assurance committees" from page 1, lines 12 and 13, and page 2, lines 10, 15, 21 and 22. Your Committee has further amended the bill to make technical changes which have no substantive effect and to correct typographical errors.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1148, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1148, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 646 Health on H.B. No. 69

The purpose of this bill is to incorporate the Model Determination of Death Act into the Hawaii Revised Statutes and to repeal the existing statutes on Determination of Death.

Your Committee heard supporting testimony from the Department of Health and the Hawaii Medical Association in favor of the bill. The bill is patterned after model legislation proposed by a national commission on determination of death and recommended by the American Medical Association and the American Bar Association.

The bill would incorporate the model act into Hawaii law and be consistent with other uniform State laws.

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

Signed by all members of the Committee.

SCRep. 647 Health on H.B. No. 502

The purpose of this bill is to mandate the testing of all newborn infants in Hawaii

for congenital hypothyroidism and to direct the department of health to adopt rules concerning administration of the tests, record keeping, and the reporting of positive test results.

Presently, Section 333-1, Hawaii Revised Statutes, requires testing of newborn children for phenylketonuria (PKU). This bill amends the section to include mandatory testing for congenital hypothyroidism.

Your Committee finds there is a need for congenital hypothyroidism testing. Like PKU, congenital hypothyroidism can lead to severe mental retardation and a lifetime of dependency. Tests for both diseases can be conducted with a single blood sample from the newborn infant.

Your committee has amended the bill by deleting Section 1 which proposed to add a new section to Chapter 333 requiring the Department of Health to maintain a registry for keeping records and related data and reporting test results for PKU and congenital hypothyroidism. Your Committee finds that the present recording and reporting procedures of the Department are adequate for the purposes of this bill without the need for a registry.

The bill has been further amended to appropriately renumber sections and to make technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 502, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 502, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 648 Health on H.B. No. 1153

The purpose of this bill is to grant immunity from civil liability to people who serve on peer review committees of specialty societies.

Current law provides that members of peer review committees of professional societies be immune from civil liability for any acts committed in furtherance of the purpose for which the committee was established.

Your Committee finds that Hawaii's specialty societies may not be immune under the present law and further finds that peer review committees of specialty societies should be included in the blanket of immunity protecting "professional societies", as defined in section 663-1.7, Hawaii Revised Statutes.

This bill placed specialty societies within the definition of "professional society", thereby extending to peer review committees of such societies the same immunity already granted to other professional societies.

Your Committee has amended the bill by deleting the word "medical" from page 1, line 16. The purpose of the amendment is to include hospital quality assurance committees within the term "peer review committee".

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1153, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1153, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 649 Health on H.B. No. 1121

The purpose of this bill is to exempt hospital administrators, assistant administrators and the hospital systems executive officer from civil service status, to allow the Director of Health to contract with private individuals or corporations for management services for Hilo Hospital, and to require a complete report on the county/state hospital system and contracts awarded pursuant to this bill, to be submitted to the Legislature in 1984.

Your Committee finds that the provisions of this measure would increase the flexibility of the Department of Health in managing the county/state hospital system. According to testimony from the Department of Health, administrative vacancies in Hilo

hospital threaten its operations because of the considerable leadership role exercised by these administrators. The recruitment and establishment of a new administrator under civil service rules is a lengthy process which may leave Hilo hospital without on-site leadership for lengthy periods of time. Recruitment itself may be difficult because, in many cases, only the lowest step in a salary range can be offered to a candidate.

Your Committee finds that this bill provides for the contracting out of management services to the private sector, which is a cost-effective alternative to the present system of management.

Your Committee has amended the bill by deleting references to the "hospital systems executive officer," because currently no such position exists in Hilo hospital. The bill has also been amended to make technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1121, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1121, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Young.

SCRep. 650 Human Resources on H.B. No. 72

The purpose of this bill is to establish a nursing home without walls demonstration project under the department of social services and housing to provide extended home services to certain persons who are chronically ill and disabled patients who are certified as requiring skilled nursing or intermediate level care.

Your Committee agrees that the development of more economical methods of home care services should be the primary focus of state action, and that extended home care services are intended to serve as a single point of entry and access to a comprehensive and coordinated program of care for the aged and chronically ill. Toward this goal, this bill:

(1) Provides that the demonstration project be limited to the island of Oahu from July 1, 1983, to June 30, 1985;

(2) Specifies that patient eligibility and the patient care expenditure ceiling shall be based on the pertinent aspects of the Medicaid program;

(3) Computes the patient care expenditure ceiling on an annual basis;

(4) Provides that patients may accrue "paper credits" for funds not utilized under the patient care expenditure ceiling which may be applied against later higher service requirements;

(5) Establishes a total project expenditure ceiling at not more than 75 per cent of the Medicaid cost of serving the project's patients;

(6) Provides that services should be those economically feasible, including the use of informal care providers, contracted agency and individual providers, and project personnel;

(7) Establishes a project advisory council;

(8) Exempts the project from licensing or certification requirements of the department of health or the state health planning and development agency;

(9) Requires the adoption of appropriate rules; and

(10) Exempts project personnel from civil service provisions.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. 72, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 651 Human Resources on H.B. No. 325

The purpose of this bill is to clarify existing state law concerning the Aid to Families with Dependent Children (AFDC) program.

This bill repeals section 346-53(c) and section 346-55, Hawaii Revised Statutes (HRS), which were originally enacted to provide enabling authority for state participation in the federal AFDC program. These sections have not been updated to conform to federal amendments to the AFDC program, with the result that state law is inconsistent with federal law. Thus, the administration has proposed to repeal the sections and rely on other broad statutory authority under chapter 346, HRS, to operate the AFDC program.

Your Committee concurs with the administration's proposal for two primary reasons. First, confusion in the operation of the AFDC program will be eliminated and possible future litigation concerning the differences deterred. Second, the Department of Social Services and Housing will have the flexibility to conform to any other subsequent federal changes to the program without further enabling authority.

Your Committee has made one substantive amendment to the bill. Section 346-51, HRS, contains a reference to a subsection in section 346-53, HRS. That reference has been amended to conform to the redesignation of subsection in section 346-52.

Other technical, nonsubstantive amendments also have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 325, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 325, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 652 (Majority) Human Resources on H.B. No. 531

The purpose of this bill is to grant civil service status to employees of the Department of Agriculture and to place the personnel administration thereof with the Board of Agriculture.

Since its inception in 1967, all positions in the Milk Control Division of the Department of Agriculture have been administered by the Milk Commissioner and exempt from civil service in order to allow flexibility in negotiating for the best qualified personnel.

Your Committee finds that since program tenure is now well established, that all the positions in the Milk Control Division with the exception of the Milk Commissioner, should be classified in civil service in order to provide the employees therein with the opportunities and rights now enjoyed by the majority of employees of the Department of Agriculture and other agencies in State and County jurisdictions.

Your Committee further finds that, attendant to the proposed position classifications, the administration of Milk Control Division employees should be placed with the Board of Agriculture rather than the Milk Commissioner.

This bill grants civil service status to all Milk Control Division positions, with the exception of the Milk Commissioner, and transfer personnel administration thereof from the Milk Commissioner to the Board of Agriculture.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 531, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.
Senator Cayetano did not concur.

SCRep. 653 (Majority) Human Resources on H.B. No. 532

The purpose of this bill is to grant civil service status to neighbor island plant quarantine inspectors in the Pre-Departure Program of the Department of Agriculture.

Originally, inspectors in this program were hired with regular civil service status, but in May 1978 new civil service regulations placed all subsequent temporary

positions on limited term status. Accordingly, all inspectors hired since May, 1978 have been given limited term exempt status, while inspectors hired prior to May, 1978 have retained their classified status. Presently, nine inspectors are classified and nineteen are exempt.

Your Committee finds that to continue the exempt status of these positions would deny otherwise deserving employees the opportunities and rights now enjoyed by other civil service employees in the Department and other agencies of the State.

Further, these employees are being paid 50% through special funds (airport landing fees assessed by the Department of Transportation) and the other 50% through Federal funds.

This bill remedies the situation by granting classified civil service status to the exempt inspector positions in the Pre-Departure Program of the Department of Agriculture.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 532 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.
Senator Cayetano did not concur.

SCRep. 654 (Majority) Human Resources on H.B. No. 530

The purpose of this bill is to grant civil service status to five employees in the Planning and Development Office of the Department of Agriculture.

Presently, all positions in the Department of Agriculture, with the exception of five exempt positions established by Act 218, SLH 1973 for agricultural planning and marketing, are classified in the civil service system.

Your Committee finds that to continue the exempt status of these positions would deny otherwise deserving employees the opportunities and rights now enjoyed by other civil service employees in the Department and other agencies in the State.

This bill remedies the situation by granting classified civil service status to the five exempt positions in the Department of Agriculture.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 530 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.
Senator Cayetano did not concur.

SCRep. 655 Human Resources on H.B. No. 594

The purpose of this bill is to allow the Employees' Retirement System to invest in second mortgage loans is secured for the purpose of acquiring the leaseholder's fee simple interest in improved real estate.

Currently, the law authorizes the board of trustees, as a part of its investment program, to make real estate loans secured by first mortgages.

A member who has a first mortgage loan with the Retirement System must secure a second mortgage loan with a lending institution when it comes time to purchase his leasehold land. This often means loans at higher rates of interest.

This measure will help in assisting members in the Retirement System in purchasing their leasehold land. Although it is not automatically granted, it provides an opportunity for members to be eligible for such loans.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 594 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 656 Human Resources on H.B. No. 34

The purpose of this bill is to clarify the confidentiality of certain information and records of the Department of Social Services and Housing.

According to recent court decisions and the Attorney General's office, the law regarding confidentiality of records (§346-10) does not necessarily refer to social services, nor does it refer to cases of adult abuse and neglect unless the victims are elderly.

This bill permits the disclosure of social services recipient information relevant to the operation of unlicensed adult care facilities, in order to curb such illegal facilities and to substantiate legal actions brought against them.

This bill would protect the department's records and confidential information regarding applicants for and recipients of social service benefits. Your Committee has amended this bill by adding a new subsection (f) to protect the identity and location of foster care and adoptive homes when it is in the best interest of the child, other foster children in the home, or the foster parents not to have the location of a child made known to the parents, guardians or other individuals.

Your Committee has amended this bill by adding a new subsection (g) to provide for the confidentiality of all records of adult neglect and abuse.

Your Committee has amended this bill by adding a definition of "Social Services", which is currently undefined in the statutes for the purpose of clarifying the provisions of chapter 346.

Your Committee has further amended the bill by making technical, nonsubstantive changes in format to conform to accepted drafting style.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 34, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 34, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 657 Human Resources on H.B. No. 1313

The purpose of this bill is to appropriate monies for fiscal year 1983-1984, for reimbursements to hospital-based nursing facilities under the medical assistance program in order to maintain the reimbursement levels for skilled nursing care and intermediate care at the same levels at those in effect on July 1, 1982.

The Hospital Association of Hawaii noted that this bill would make an appropriation for hospitals which are or will be experiencing significant short-falls in reimbursement for long-term care services created by the federal Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA '82). Your Committee finds that the intent of TEFRA is to reduce reimbursements to long-term care facilities to discourage acute hospital participation in the provision of long-term care to reduce the overall costs in long-term care. However, Hawaii is unique as the effect of TEFRA will have an impact on Hawaii's hospitals which is four times greater than other facilities nationally.

Your Committee has amended this bill by changing the amount appropriated to \$3,750,000 for the reimbursement of hospital-based nursing facilities.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1313, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1313, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 658 Human Resources on H.B. No. 809

The purpose of this bill is to establish an inter-agency coordination committee for the development and implementation of a statewide occupational information system (OIS).

Presently there are many state agencies which provide some type of occupational and career information on an individual basis. The Federal vocational educational law mandates the establishment of a statewide occupational information system.

This bill would provide for the development and delivery of occupational and career information on a statewide basis and provide for the coordination of this information by the Hawaii state occupational information coordinating committee.

Your Committee finds that there is a need for all agencies involved in the production and use of occupational and career related information to be well coordinated in order to strengthen the planning of programs and delivery of services to Hawaii's people.

Your Committee has amended this bill to include a revolving fund which will capture user fees charged for the use of the Hawaii Center Information Delivery System's computer terminals and card sort delivery systems rather than have them revert to the General Fund. The user fees will be charged primarily to private sector users.

Your Committee has further amended Part I, Section 1 of the bill to clarify the nature of membership on the HSOICC by deleting the period after the word "agencies" in line 21, page 3, and by adding the following phrase: "but shall not exceed twenty-five members with one member per agency".

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 809, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 809, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 659 Human Resources on H.B. No. 1126

The purpose of this bill is to repeal the resident alien and naturalized citizen program under which elderly, indigent aliens and naturalized citizens are provided state assistance to return to their homelands.

Although the bill, as received, finds that the program should be repealed, your Committee feels that the program has merit. Accordingly, your Committee has replaced the contents of the bill, as received, with substantially the same contents as S.B. No. 664, S.D. 1. In this manner, a potentially worthy program is continued with changes which more accurately reflect the Legislature's original intent. The purpose section of the bill, as amended, contains findings and purpose, with which your Committee agrees.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1126, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1126, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 660 Human Resources on H.B. No. 1347

The purpose of this bill is to increase the amount of monthly contributions to be paid by the State and counties to the Public Employees Health Fund, and to make appropriations therefor.

The bill amends Sec. 87-4 to require the State and counties, as employers to pay a higher monthly contributions for their employees' Medical Plan Benefits. The increases are from \$15.98 to \$19.78 for self-only enrollment, and from \$49.14 to \$60.80 for family enrollment.

The bill further provides for appropriations to fund the program as follows: \$2,110,000 for fiscal year 1983-1984, and \$2,174,000 for fiscal year 1984-1985.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1347, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 661 Human Resources on H.B. No. 1567

The purpose of this bill is to create a new noncontributory benefit plan for certain members of the public employees' retirement system.

This bill is a radical departure from the present retirement system and will have many consequences. It has been before the Legislature for only a short time and, given the complexity of the bill, your Committee feels that sufficient study has not been accomplished. In addition, Congress has before it a proposal to make comprehensive amendments to the federal Social Security Act. The new benefit plan proposed in the bill may be greatly impacted by any amendments to the Act, since the new benefit plan is interrelated with Social Security benefits. Thus, your Committee finds that action on this bill should be deferred until completion of congressional action on Social Security and further review by the Legislature. Accordingly, your Committee has deleted the contents of the bill.

Your Committee, however, reports the bill with one amendment to the public employees' retirement law. The bill now continues the investment yield rate of seven per cent for the purpose of the actuarial valuations. Under present law, the investment yield rate was seven per cent for the year ending June 30, 1982, but will become four and one-half per cent for subsequent years. The investment yield rate is an important factor in computation of the employer contributions to the system and reflects a realistic assumption of the net earnings of the system's investments. Your Committee feels that employer contributions should not be changed at this time. Your Committee, however, intends to review this matter when the new noncontributory benefits plan is again reviewed.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1567, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1567, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Kuroda.

SCRep. 662 Human Resources on H.B. No. 780

The purpose of this bill is to provide funds for fiscal year 1983-1984 as grants-in-aid to private nonprofit agencies for the operation or construction of day hospitals.

Your Committee has amended the bill by changing the amount appropriated to \$60,000 for the establishing of day hospitals.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 780, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 780, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 663 Human Resources on H.B. No. 779

The purpose of this bill is to provide funds for fiscal year 1983-1984 as grants-in-aid to private, nonprofit agencies for certain adult day care centers.

Your Committee has amended this bill by changing the amount appropriated to \$90,000 for the establishing and expanding of adult day care centers.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 779, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 779, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 664 Human Resources on H.B. No. 757

The purpose of this bill is to require that a claim for temporary disability insurance benefits be filed within 90 days after the commencement of the disability, or as soon as is reasonably possible.

Present temporary disability insurance regulations call for the filing of claims within 30 days after the commencement of disability, or as soon as is reasonably possible. The present law, however, does not prescribe any time limit as to the filing of the claim.

Your Committee finds that the deadline for filing temporary disability insurance claims should be set at 90 days in order to provide consistency with most other labor laws.

Your Committee amended the bill by making technical, nonsubstantive changes in the format to conform to accepted drafting style.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 757, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 757, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 665 Housing and Urban Development on H.B. No. 1621

The purpose of this bill is to reappropriate a portion of funds previously appropriated into the state mortgage guarantee fund by Act 283, Session Laws of Hawaii 1982, but which have not been utilized for the purposes of the fund. This bill would reappropriate the previously appropriated funds for the following purposes:

- (1) Mortgage guarantees under the state guarantee fund;
- (2) Development of low- and moderate-income and gap group housing by the nonprofit Pacific Housing Assistance Corporation;
- (3) A study to recommend changes to existing laws, ordinances, codes, and regulations in order to promote increased and more flexible provision of housing units for low- and moderate-income and gap group households; and
- (4) An evaluation of tax policy changes as they relate to the provision of housing.

Your Committee finds that the study of regulations and evaluation of tax policy are important in long-term efforts to reduce the cost of housing to all Hawaii households; however, your Committee believes that highest priority should be given to funds for the immediate development of affordable housing by a nonprofit housing entity. Your Committee finds that a private nonprofit housing organization, because it does not have to generate profits from the development and sale of housing, would be able to develop housing at a reduced cost. Secondly, the nonprofit organization should be able to reduce acquisition and construction costs due to its simplified structure and organization. Lastly, such an organization could possibly take a more active role in developing affordable housing than a government agency, without being seen as competing with private housing developers.

Your Committee finds that H.B. No. 1621, H.D. 1, does not constitute an appropriation of state funds which will be calculated against the fiscal year 1983-1984 expenditure ceiling. Under this bill, the fiscal year and expending agency are the same as exist in Act 283, Session Laws of Hawaii 1982, with the \$400,000 appropriated by the Act being utilized for additional activities which complement the purpose of the original appropriation, the provision of affordable housing for low- and moderate-income households.

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

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1621, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1621, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 666 (Majority) Economic Development on H.B. No. 268

The purpose of this bill is to abolish the commission on population and the Hawaiian future, transfer population planning and management responsibilities to the

department of planning and economic development, and transfer the commission's staff of four permanent positions and its funds and property to the department.

The commission, established in 1973, has served in an advisory capacity on population and planning issues. With the adoption of the Hawaii State Plan in 1978, however, the State has strengthened its commitment and obligation to plan and manage population growth and distribution. In addition, article IX, section 6 of the State Constitution, passed by the 1978 Constitutional Convention and ratified by the voters, requires the State and counties to plan and manage population growth to protect the public health and welfare. Your Committee believes the establishment of these mandates provides a basis on which further measures can be taken and directions pursued, and thus the eleven-member advisory commission is no longer necessary to deal with population issues.

Your Committee has received testimony on S.B. No. 152, a companion bill to H.B. No. 268, H.D. 2. Both the department of planning and economic development and the commission on population and the Hawaiian future recommended the abolishment of the commission.

Your Committee has amended this bill by eliminating the proposed transfer of the commission's staff of four permanent positions and its funds and property to the department. Your Committee believes the responsibilities listed in the bill are adequately being performed by the department of planning and economic development.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 268, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 268, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Hagino did not concur.

SCRep. 667 Economic Development on H.B. No. 1505

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$10,000,000 in one or more series to assist Aloha Studios, Inc., a Hawaii corporation, in the generation of new capital for the establishment of industrial enterprise facilities relating to the performing arts.

Aloha Studios has begun negotiations to lease property at the old Primo Brewery in Pearl City to build a full-fledged film studio. Tentatively scheduled to be fully operational in late 1984, the studio will provide film and sound stages, post-production facilities, theatres, related activities and services, and support facilities and services. Such facilities and services are designated to attract new segments of the film industry to Hawaii, while providing excellent facilities for on-going productions in the State.

Your Committee finds there is a need for a functioning sound stage and motion picture center in Hawaii. According to Stuart Sheslow, a producer for Lorimar Productions (a film production company based in California), Hollywood producers consider Hawaii an ideal location to shoot exteriors. The lack of sound stages and facilities in the State, however, forces them to return at high cost to Hollywood to complete their productions. Presently, the Magnum P.I. television series is utilizing the State's only existing sound stage.

Your Committee further finds that a full-fledged film studio would enhance the growth and development of the film industry in Hawaii, contribute to economic diversification and increase employment opportunities for Hawaii's residents. Commercial filming is a non-polluting industry, environmentally compatible with the interests of the State. The industry does not deplete Hawaii's natural resources, and it advertises and promotes the Island's natural beauty and cultural diversity.

According to Aloha Studios, it has received definite interest from a television series entitled "Hawaii High," which should bring approximately \$15 million of new revenue to the State, and from a post-production facility, which should bring approximately \$8 million worth of state-of-the-art equipment. The Aloha Studios facilities, moreover, will permit specials, and teleconferencing, heretofore not considered for Hawaiian production.

Your Committee believes the issuance of special purpose revenue bonds would provide excellent financing for the studio's development and would not create an

obligation of cost to the State.

Your Committee has received testimony from the department of planning and economic development, Hawaii Film Office, Hawaii Producers Association, Aloha Studios, Inc., Lorimar Productions, Location: Hawaii (a local film production company), William Paty, Jr., and the Aiea Neighborhood Board. All are in support of this bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1505, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 668 Economic Development on H.B. No. 1262

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds for a total amount not to exceed \$10 million for the construction of an ethanol plant.

Your Committee finds that ethanol is an indigenous source of liquid fuel that can reduce the State's dependence on imported petroleum. Ethanol can be produced from molasses, a by-product of sugar cane that has recently decreased in price, and can be used as an additive to gasoline. The sugar industry produces approximately 330,000 tons of molasses per year that can be converted into 23 million gallons of ethanol, or eight percent of the State's gasoline supply.

Your Committee has previously heard an identical measure, S.B. No. 755, and received testimony from both the department of planning and economic development and the Hawaiian Sugar Planters' Association in support of this bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1262, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cobb.

SCRep. 669 Economic Development on H.B. No. 1399

The purposes of this bill are to create and fund a statewide forest lands management program under the department of land and natural resources; include tree farming as an agricultural activity in the definition of an agricultural park; and reduce from five percent to two and one-half percent the yield tax on stumpage value of trees cut and processed into wood chips.

Your Committee finds that this bill will encourage the utilization of available natural resources for energy production, provide for affordable sources of energy, and create employment opportunities for the people of Hawaii. The residents of Molokai are particularly affected, because that island has the highest energy costs and the highest unemployment rate in the State. Therefore, legislation is needed to improve the economic situation of the Island of Molokai.

Your Committee has received testimony from the departments of taxation, planning and economic development, land and natural resources; the Sierra Club of Hawaii; and Molokai Electric Company in support of this bill.

In response to testimony submitted by the Sierra Club, your Committee has added a clause to this bill to provide that the scheduling of new plantings and replantings exclude both native forest areas and watershed lands. Your Committee agrees that this amendment will preserve the native forests from the intrusion of exotic plants, and prevent the loss of watershed lands.

Your Committee has further amended the bill by changing the proposed statewide forest lands management program and tax reduction plan to one that applies only to Molokai. Furthermore, your Committee believes a temporary one-half percent tax rate is justified because other public service companies utilize such a rate. A reduction in yield taxes will encourage the development of biomass energy production from wood chips on Molokai, and reduce the island's high unemployment rate and energy costs.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1399, H.D. 2, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as H.B. No. 1399, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 670 Economic Development on H.B. No. 329

The purpose of this bill is to amend Hawaii Revised Statutes Section 235-12 by deleting the expression "in home water heaters" in the definition of heat pumps.

Your Committee finds that broadening the definition of heat pump will correct an inequity that inadvertently restricted the 10 percent credit to residential installation of heat pumps to qualify, and will serve as an attractive incentive for commercial users to install energy conserving heat pumps and contribute to reduced dependence on imported petroleum.

Your Committee has previously heard an identical measure, S.B. No. 212, and received testimony from both the department of planning and economic development and the department of taxation in support of this bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 329, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 671 Ecology, Environment and Recreation on H.B. No. 6.

The purpose of this bill is to establish a means whereby pollution control projects for the disposal of solid waste can be financed by the counties through the issuance of special purpose revenue bonds.

Your Committee finds that sanitary landfills are a costly and inefficient method of disposing of the ever-increasing amounts of solid waste and that alternative methods of disposal must be pursued. The success of pollution control projects which also provide for waste recovery and cogeneration of electricity has been proven; however, the high costs of design and installation require financial assistance in the form of tax-exempt financing.

Your Committee has amended the bill by amending Chapter 46, Hawaii Revised Statutes, to include sections regarding transactions for utility services and liquidated damages and deleting these sections from the proposed Chapter 48E. Your Committee agrees with the testimony of the Director of Finance for the City and County of Honolulu which indicates that amending these chapters will strengthen the bill. The majority of Chapter 48E deals with bond authorization and the sections on transactions for utility services and liquidated damages are more closely related to Chapter 46, which contains general provisions of law common to all counties.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 6, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 6, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 672 Health on H.B. No. 114

The purpose of this bill is to establish a financial assistance fund for the hemophilia-related medical care and treatment of persons in this State suffering from hemophilia.

Your Committee finds that, without outside financial assistance, the majority of hemophiliacs would have to be on welfare in order to receive treatment for this costly disease. Present medical expenses average about \$10,000 per year per patient.

Your Committee further finds that the high costs of treating the hereditary genetic disease of hemophilia necessitate the provision of financial assistance to hemophilia sufferers. This bill will allow the Department of Health to provide direct financial

assistance within the limits of available funds to hemophilia sufferers who meet eligibility standards established by the Department. In the event that the department chooses to contract with a private nonprofit organization, such contract should not include costs for administrative expenses.

Your Committee has amended the bill by adding an unspecified appropriation to effectuate Section 2 of this Act, and has changed the effective date of the Act to July 1, 1983.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 114, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 114, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Young.

SCRep. 673 (Majority) Health on H.B. No. 1297

The purpose of this bill is to authorize the issuance of \$43,320,000 in special purpose revenue bonds to assist St. Francis Hospital in the construction of a new hospital facility in Waipahu-Ewa.

Your Committee finds that St. Francis has long been recognized as a major provider of health care services. In view of the fact that Pearlridge Hospital is no longer in operation, the new hospital facility planned for Waipahu-Ewa would provide necessary services to the greater Leeward community.

Presently, St. Francis Hospital has a certificate of need application pending with the State Health Planning and Development Agency (SHPDA) for this facility. The authorization to issue special purpose revenue bonds in this bill is contingent on approval by SHPDA for this project. Upon approval of the issuance of the bonds, considerable savings will inure to St. Francis Hospital, resulting in lower health care costs to the consumer.

However, your Committee emphasizes that favorable consideration of this bill does not in any way indicate a preference for St. Francis' proposal, comparative to other proposals now pending before SHPDA which are part of the same "batch" review.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1297, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Young.
Senator George did not concur.

SCRep. 674 Health on H.B. No. 818

The purpose of this bill is to change the standard of proof from "beyond a reasonable doubt" to "upon clear and convincing evidence" for involuntary, civil commitment to a psychiatric facility. This bill addresses hospitalization procedures for non-emergency treatment or supervision at a psychiatric facility.

Your Committee recognizes that the proposed standard of proof is one approved by the U.S. Supreme Court in 1979 (*Addington v. Texas*, 99 S.Ct. 1804, 1809). The courts have found that "beyond a reasonable doubt" constitutes an impossible test. This measure would bring Hawaii law into consonance with case law.

Your Committee finds that this bill clarifies the responsibilities of the court and the hospital regarding involuntary commitment cases and the process of hospitalization and discharge. The specifics provided under this measure encourage accountability of all parties involved in the process for each patient.

Your Committee has amended the bill by deleting the reference to the person's being "dangerous to property" as grounds for commitment, and adding the words "is gravely disabled," so that such afflicted individuals can obtain needed care through involuntary hospitalization. Your Committee has further amended the bill by adding a new Section 2, incorporating a new definition of "gravely disabled" into Section 334-1, Hawaii Revised Statutes, and by renumbering the other sections of the bill accordingly.

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

818, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 818, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Young.

SCRep. 675 Housing and Urban Development on H.B. No. 708

The purpose of this bill is to amend chapter 516, Hawaii Revised Statutes, by amending section 516-51 and by adding a new section to the Land Reform Act which clarifies the role of the parties in chapter 516 eminent domain actions.

The proposed amendment to section 516-51, Hawaii Revised Statutes, precludes any party from introducing as evidence in chapter 516 condemnation trials, any offers, appraisals, other documents, or any expert opinions used in connection with preliminary negotiations.

It is the intent of this amendment to encourage open and honest discussion during preliminary negotiations by assuring lessors and lessees that information disclosed during this time cannot be used against them in trial.

The bill further clarifies the position of lessees in chapter 516 eminent domain trials by requiring the Hawaii Housing Authority to be named as plaintiff and lessees, along with all necessary parties, to be named as defendants. This affords all parties, including lessees, the opportunity to present evidence during trials.

Your Committee is in concurrence with the finding of the House that these clarifying amendments will neither have impact on nor confuse the issue of the Land Reform Act's constitutionality now before the courts.

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

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 708, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 708, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb and Yamasaki.

SCRep. 676 Agriculture on H.B. No. 393

The purpose of this bill is to establish an independent agricultural land study commission to advise the Legislature in the development of an agricultural land classification system for identifying important agricultural lands pursuant to Article XI, Section 3, of the State Constitution.

Your Committee noted the concern expressed by the State of Hawaii House of Representatives, Department of Agriculture, and the Sierra Club relating to the possibility of excessive or inappropriate conversion of agricultural land to other uses before the work of the commission has been completed.

Your Committee concluded that faithful adherence to present state constitutional provisions for agricultural land classification or zoning, statutory protection and promotion of agriculture, and regulatory identification of important agricultural land will substantially prevent such inappropriate and excessive conversion of agricultural land to other uses. Violations of these requirements can be remedied, as they are now, in existing adjudicatory forums.

Your Committee amended this bill by:

- (1) Changing the title of the commission from Agricultural Land Study Commission to State of Hawaii Land Evaluation and Site Assessment Commission.
- (2) Moving the Commission from the Department of Agriculture to the office of the Legislative Reference Bureau.
- (3) Specifying one member to the Commission to be an individual with a background in land use economics, raising the total number of Commission members to seventeen, and specifying that only one member shall be from the general public instead of two, and that one member shall represent the United States Department of Agriculture's Soil Conservation Service.

- (4) Amending the important agricultural lands classification system to be pursuant to the State of Hawaii's land evaluation and site assessment system, modeled after a system (LESA) developed by the Soil Conservation Service of the United States Department of Agriculture. The bill as received by your Committee provided for these lands to be classified pursuant to Article XI, Section 3, of the Constitution of the State of Hawaii.
- (5) Further specifying the general concepts and categories under which the Hawaiian lands shall be classified by the State of Hawaii land evaluation and site assessment system. Currently the bill does not specify these concepts and categories.
- (6) Deleting the current specific references to the Land Study Bureau's Detailed Land Classification system and the Agricultural Lands of Importance to the State of Hawaii system.

Your Committee has also amended the bill by making minor technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 393, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 393, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Aki and Kawasaki.

SCRep. 677 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Gov. Msg. Nos. 257 to 269, S.C.R. Nos. 51 and 52, S.R. Nos. 64 to 67 and Stand. Com. Rep. Nos. 678 to 682 on March 28, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 678 Education on S.R. No. 22

The purpose of this resolution is to encourage teachers in the Department of Education to emphasize citizenship and ethics training in the classroom.

Your Committee finds that the emphasis of values reflecting thoughtful consideration of others and responsible citizenship can be imparted in Hawaii's schools without special programs or curricula, as long as instructors and administrators make a determined effort to stress these principles throughout all of their programs and classes.

Your Committee on Education is in accord with the intent and purpose of S.R. No. 22 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 679 Ways and Means on Gov. Msg. Nos. 204, 205, 206 and 207

Recommending that the Senate advise and consent to the nominations of the following:

FRANK. K. HAMADA and HERBERT A.B. CHANG to the Board of Taxation Review, First Taxation District, for terms ending December 31, 1986;

VICTOR I. ENDO to the Board of Taxation Review, Second Taxation District, for a term ending December 31, 1986; and

BRIAN J. IKAWA to the Board of Taxation Review, Third Taxation District, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 680 Human Resources on Gov. Msg. No. 157

Recommending that the Senate advise and consent to the nomination of EDUARDO MALAPIT to the Labor and Industrial Relations Appeals Board, for a term ending

December 31, 1986.

Signed by all members of the Committee.

SCRep. 681 Consumer Protection and Commerce on H.B. No. 658

The purpose of this bill is to continue the existence of the Board of Registration of Professional Engineers, Architects and Surveyors to December 31, 1989.

The Legislature passed the Sunset Law in 1977 (Act 70, SLH 1977) which repealed statutes establishing state licensing boards over a six-year period. The Legislative Auditor has since been made responsible for evaluating each licensing program prior to its repeal and to recommend whether the statute should be reenacted, modified or allowed to expire as scheduled.

Your Committee received extensive testimony in favor of extending the board's life through 1989. A recommendation was proposed by the board that would require land surveyors to take a national examination supplemented by a local examination. Your Committee is in accord with this recommendation and has asked the board to submit a progress report on the implementation of the national exam for land surveyors no later than twenty days prior to the convening of the 1984 legislative session.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 658 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 682 Education on Gov. Msg. Nos. 113 and 114

Recommending that the Senate advise and consent to the nominations of the following:

RAMONA H. HAO to the Hawaii Education Council, for a term ending December 31, 1986; and

GRACE KEKAULIKE BASQUE and KATHERINE S. HANLEY to the Library Advisory Commission, County of Hawaii, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 683 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. No. 53 and S.R. Nos. 68 and 69 on March 29, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee except Senator Young.

SCRep. 684 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 54 and 55, S.R. Nos. 70 and 71, and Stand. Com. Rep. Nos. 685 to 691 on March 30, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 685 Consumer Protection and Commerce on H.B. No. 876

The purpose of this bill is to repeal the \$4,000 maximum limit on the amount of group life insurance offered to credit union members by the credit union.

Credit unions have provided life insurance as a service to their members since 1937 and consider it to be an incentive to the maintenance of savings programs. Currently in Hawaii, the insurance provided for credit union members is based on the amount of eligible savings in a member's account up to \$4,000. Removal of the

limit would encourage savings by enabling credit unions to offer a higher level of insurance in conjunction with the current fiscal needs of their members.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of this bill, stating that it would afford greater flexibility to credit unions in providing life insurance coverage to their members which may be more in line with the present day needs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 876, 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 Senators Holt, Yamasaki and Soares.

SCRep. 686 Consumer Protection and Commerce on H.B. No. 1580

The purpose of this bill was to set forth an industry-wide reorganization plan that would shift the insurance of industrial loan companies from the Thrift Guaranty Corporation of Hawaii to the Federal Deposit Insurance Corporation (FDIC).

Currently, each qualifying thrift account is insured up to \$10,000 by the Thrift Guaranty Corporation of Hawaii. All industrial loan companies licensed under Chapter 408, and which issue thrift account obligations, are required to be members of the Thrift Guaranty Corporation, which was established to assist in stabilizing the industrial loan industry. The guaranty fund was initially established through a \$20,000,000 loan from the State to be repaid over a twenty year period, by the Thrift Guaranty Corporation.

The Director of the Department of Commerce and Consumer Affairs has assured your Committee that repayment of this loan to the State will not be jeopardized by the enactment of this bill.

This bill will permit industrial loan companies to become members of the FDIC and thus will further strengthen the industry by permitting them to insure qualifying thrift deposit accounts up to \$100,000. The FDIC's insurance fund currently has funds in excess of thirteen billion dollars.

Your Committee has adopted the recommendations of the Department of Commerce and Consumer Affairs by amending the bill to eliminate amendments to the voting procedure.

In addition, your Committee has amended the bill by providing that if a member of the Thrift Guaranty Corporation becomes insured by the FDIC prior to July 1, 1984 (the date when all companies issuing thrift account obligations must be insured by the FDIC) the member's obligation to pay assessments required by §408A-10 shall be reduced by the amount of assessments paid to the FDIC during the previous twelve months, rather than terminated and prorated as of the date of termination.

Your Committee has further amended the bill by making nonsubstantive syntactical and grammatical changes for the purposes of enhancing style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1580, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1580, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Yamasaki and Soares.

SCRep. 687 Health on Gov. Msg. Nos. 116, 117, 118, 191, 119, 192, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 193, 131, 194, 195, 188, 189, and 190

Recommending that the Senate advise and consent to the nominations of the following:

HENRY N. THOMPSON as Administrator of the State Health Planning and Development Agency, for a term ending December 1, 1986;

JOYCE KIMI HORIKAWA to the State Planning Council on Developmental

Disabilities, for a term ending December 31, 1985;

GEORGE E. MORIKAWA, JEFFREY DAVID NUNN AND JUDITH DOKTOR to the Commission on the Handicapped, for terms ending December 31, 1986;

VINCENT H.S. LEE to the Commission on the Handicapped, for a term ending December 31, 1984;

WILLIAM BLANCHARD and BARBARA K. IDETA to the State Emergency Medical Services Advisory Committee, for terms ending December 31, 1986;

PETER HALFORD, M.D., DOUGLAS M. ROGERS, M.D., and JAMES S. MAEDA to the State Emergency Medical Services Advisory Committee, for terms ending December 31, 1985, December 31, 1986, and December 31, 1986, respectively;

JAMES MIYAHARA, Ph.D., and JUNEDALE U. HASHIMOTO to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1986;

VERNON Y.N. CHOCK and YOSHI T. KOGA to the East Honolulu Subarea Health Planning Council, for terms ending December 31, 1986;

WILLIAM R. FLANDERS to the East Honolulu Subarea Health Planning Council, for a term ending December 31, 1986;

DONNA C. KEKUMU to the West Honolulu Subarea Health planning Council, for a term ending December 31, 1986;

WALLACE T. HIRAI to the Central Oahu Subarea Health Planning Council, for a term ending December 31, 1986;

JUNE I. TAKENAKA to the Windward Oahu Subarea Health Planning Council, for a term ending December 31, 1986;

REYNOLD MISHINA and BEVERLY JEAN WITHINGTON to the Hawaii County Subarea Health Planning Council, for terms ending December 31, 1986;

CORAZON E. MASICAMPO to the Maui County Subarea Health Planning Council, for a term ending December 31, 1986;

HILDA H. INOUE and JOHN ENGLISH to the Kauai County Subarea Health Planning Council, for terms ending December 31, 1986;

RACHAEL S. CHANG to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending December 31, 1986;

REGINALD S. CARVALHO to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for a term ending December 31, 1986;

LYMAN M. MORIKAWA to the County Hospital Management Advisory Committee, Maui County Hospital System, for a term ending December 31, 1986;

DONALD K. MATSUI and ELMER J. CHING to the County Hospital Management Advisory Committee, Maui County Hospital System, for terms ending December 31, 1986;

STANLEY M. SHIMABUKURO and EVELYN Y. OLORES to the County Hospital Management Advisory Committee, Kauai County Hospital System, for terms ending December 31, 1986;

DEAN JERROLD MICHAEL, MARK M. HAMASAKI and PAULINE W. YIM to the Statewide Health Coordinating Council, for terms ending December 31, 1986;

MAURICE MORITA to the Advisory Commission on Drug Abuse and Controlled Substances, for a term ending December 31, 1986; and

NELLIE S. CHANG to the Drug Product Selection Board, for a term ending December 31, 1984.

Signed by all members of the Committee except Senator Young.

SCRep. 688 Economic Development on Gov. Msg. No. 155

Recommending that the Senate advise and consent to the nomination of KENT KEITH as Director of Planning and Economic Development, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 689 Consumer Protection and Commerce on H.B. No. 304

The purpose of this bill was to eliminate issuance of temporary permits to non-residents to practice professional engineering, architecture, land surveying or landscape architecture in Hawaii.

Testimony by the Board of Registration of Professional Engineers, Architects and Surveyors indicated that at present, the qualifications for obtaining a temporary permit are the same as for permanent registration, and the time involved in obtaining permanent registration has been reduced to a point where it differs little, if any, from that for a temporary permit. In addition, the cost of a temporary permit is \$50 as opposed to \$30 for permanent registration.

Your Committee finds that due to these reasons non-resident applicants actually prefer to obtain permanent registration and notes that the last temporary permit issued by the Board was in March, 1972. This bill would eliminate issuance of temporary permits for engineers, architects and surveyors.

Your Committee has amended the bill by incorporating into it the substance of H.B. Nos. 305, H.D. 1, and 306, both of which received testimonial support from several competent organizations and deal with the same general subject matter as this bill. As a result, this bill now includes the following:

- 1) From H.B. No. 305, H.D. 1, (Section 464-6), the addition of landscape architects, which was inadvertently omitted in previous legislation, to the name of the board so that the name accurately reflects the professions regulated; and
- 2) From H.B. No. 306, (Section 464-8), the provision that a person have a minimum of five years full-time experience in landscape architecture and a pre-landscape architecture or arts and sciences degree to be eligible for registration as a professional landscape architect. Present law requires at least three years experience and a degree or a minimum of twelve years full-time experience. The above provision would fill the gap between the three and twelve-year experience and the degree and non-degree requirements.

The bill has been further amended to include nonsubstantive "housekeeping" changes to Sections 464-7, 464-9, 464-10, 464-11, and 464-12 and to make technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 304, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 304, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 690 Consumer Protection and Commerce on H.B. No. 1304

The purpose of this bill is to delete the provision that the \$15,000 initiation fee for membership in the Thrift Guaranty Corporation of Hawaii be applied to the credit of any assessment levied by the corporation.

Currently each applicant of the Thrift Guaranty Corporation of Hawaii is required to pay the corporation a fee of \$15,000 which may be applied as credit toward any assessment levied by the guaranty corporation.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of this bill which amends Section 408A-30, Hawaii Revised Statutes, by repealing the provision that the \$15,000 initiation fee be applied as a credit to any assessment levied by the guaranty corporation.

Your Committee amended the bill to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1304, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1304, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 691 Consumer Protection and Commerce on H.B. No. 1602

The purpose of this bill was to confirm the power of industrial loan companies to engage in leasing of tangible personal property and other tangible property.

Your Committee finds that industrial loan companies should be authorized to engage in leasing of personal property as leasing has become an increasingly important method of financing to obtain the use of personal property such as vehicles, equipment, machinery, and other items.

Your Committee received testimony from the Department of Commerce and Consumer Affairs stating that some industrial companies are currently engaged in leasing of tangible property pursuant to general corporate powers as provided for in section 408-14(a), Hawaii Revised Statutes. However, the power to lease is not specifically provided for in the section. This bill specifically authorizes industrial loan companies to engage in leasing of tangible personal property.

Your Committee amended the bill by correcting a typographical error in the spelling of the word "thrift" in line 14, page 2 of the House draft and deleting the word "and" after the word "property" in line 3, page 3 of the House draft.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1602, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1602, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 692 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 56 and 57, S.R. No. 72 and Stand. Com. Rep. Nos. 693 to 731 on March 31, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 693 (Joint) Education and Higher Education on H.B. No. 338

The purpose of this bill is to reduce the number of times the Teacher Education Coordinating Committee is to meet within any calendar year.

Under section 304-20, Hawaii Revised Statutes, the committee is required to meet twelve times per fiscal year.

This bill will reduce the number of required meetings from twelve to ten per year and change the time frame from a fiscal year to a calendar year. The work of the Teacher Education Coordinating Committee, at times, can be executed more efficiently by more sub-committee task force meetings and fewer committee-of-the-whole meetings. The objective of the Teacher Education Coordinating Committee is to convene and conduct business efficiently with full participation by representatives from all teacher education institutions in Hawaii. This bill provides for the attainment of this objective.

Your Committees have amended the bill to further reduce the required number of meetings to six per year. Your Committees note that the bill only affects the minimum number of meetings required and the Teacher Education Coordinating Committee may meet more often if its business requires additional meetings.

Your Committees on Education and Higher Education are in accord with the intent and purpose of H.B. No. 338, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 338, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 694 Culture and Arts on H.B. No. 311

The purpose of this bill is to enable the Hawaii Public Broadcasting Authority to make, amend and repeal rules necessary for the conduct of its operations.

Your Committee received testimony from the Hawaii Public Broadcasting Authority that during the process of converting the Authority's rules to the Ramseyer system, it was found that although the power of the Authority to adopt rules is implied in Section 314-8, Hawaii Revised Statutes, that section does not specifically grant such power. This bill will explicitly empower the Authority to adopt rules in accordance with Chapter 91.

Your Committee amended the bill to make nonsubstantive language changes for the purpose of conformance to recommended drafting style.

Your Committee on Culture and Arts is in accord with the intent and purpose of H.B. No. 311, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 311, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 695 Health on H.B. No. 239

The purpose of this bill is to eliminate the premarital syphilis serology requirement of section 572-7, Hawaii Revised Statutes.

Currently, all persons contemplating marriage must submit to serological tests for syphilis and rubella prior to applying for the marriage license.

Testimony by the Department of Health indicates that while Hawaii still has syphilis and rubella problems, the premarital serological tests have not detected a single case of syphilis in the past five years which would not have been detected through other means.

Your Committee concurs with the findings of the Health Department and finds that the premarital test for syphilis is unnecessary and should be stricken from the statutes. However, your Committee finds that there is a continuing need for prenatal syphilis testing and premarital rubella testing and notes that this bill does not eliminate those tests.

Your Committee has amended the bill by specifying that blood samples for rubella which are obtained in a department clinic will be analyzed by the department free of charge. Many private physicians send their samples to state facilities for analysis even though their patients can handle the costs themselves. This amendment provides that only public clinic users are entitled to free serological services through state facilities, which should result in a savings to the State of several thousand dollars a year in lab costs, billing and accounting.

The bill was further amended to correct two typographical errors.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 239, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 696 Health on H.B. No. 245

The purpose of this bill is to restructure the membership of the Board of Health to reflect the recent reapportionment of Hawaii's senatorial districts.

The present statute specifies that the Board be comprised of one member from each of the eight districts existing under the old apportionment structure, three members-at-large, and the Director of Social Services as an ex officio non-voting member, totalling eleven voting members.

Your Committee finds that to conform the language of the statute to the present

apportionment structure of twenty-five senatorial districts would require the Board to have twenty-eight voting members, which would be impractical.

This bill provides that the Board be comprised of at least one resident from each of the four major counties, the rest of the eleven voting members to be appointed at-large, while the Director of Social Services remains an ex officio non-voting member. It also provides that the members shall serve without compensation but shall be reimbursed for expenses, including travel.

Your Committee has amended the bill by including Kalawao county among the counties represented on the Board.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 245, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 245, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 697 Hawaiian Programs on H.B. No. 753

The purpose of this bill is to amend Section 302(a), of the Hawaiian Homes Commission Act to reflect the recent reapportionment of voting districts by deleting the requirement that the three Honolulu members reside in certain Senatorial districts.

Presently, the Commission must include three residents of the City and County of Honolulu, one each from the Third Senatorial District, the Fourth Senatorial District, and the Fifth, Sixth, or Seventh Senatorial District. Because of the recent reapportionment of the island of Oahu from five Senatorial districts to nineteen Senatorial districts, the present Senatorial district residence requirement is out-dated. Therefore, this bill deletes the requirement and allows at large Oahu representation on the Commission.

Your Committee has amended the bill to provide that among the members of the Commission, there shall be an attorney, a real estate broker, a teacher, and a businessman.

Currently, the only qualifications for appointment to the Hawaiian Homes Commission are place of residence, length of residence in the State and a requirement that at least four of the eight members be one-fourth Hawaiian blood.

Your Committee finds that the appointment of persons engaged in the occupations and professions designated will enable the Commission to more effectively discharge its duties.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of H.B. No. 753, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 753, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 698 Housing and Urban Development on H.B. No. 269

The purpose of this bill is to clarify the provisions of section 206E-3(b), Hawaii Revised Statutes, which state how members of the Hawaii Community Development Authority are appointed by the governor.

Currently, the law provides for the initial appointment of three members selected from a list of ten prospective appointees recommended by the local governing body of the county in which the designated district is situated. There is, however, no selection procedure specified for subsequent appointments to fill vacancies for these three positions on the Authority.

This bill specifies the number of names to be recommended by the local governing body if one, two, or three vacancies are to be filled at one time.

Your Committee has amended section 206E-3(b), Hawaii Revised Statutes, by rephrasing the amendment to more clearly reflect the intent of the bill that the procedure for filling vacancies proposed by this bill is for those three positions for which the members were selected from a list of county recommendations.

Your Committee has made other technical, nonsubstantive amendments to the bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 269, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 269, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 699 Housing and Urban Development on H.B. No. 813

The purpose of this bill is to repeal section 359L-6, Hawaii Revised Statutes, which established the Factory-Built Housing Advisory Board.

The Factory-Built Housing Advisory Board provided recommendations when the rules governing factory-built housing were first being adopted. The Department of Commerce and Consumer Affairs (DCCA) testified that the Department has found the rules to be comprehensive and adequate and has found no need to consult with the Advisory Board since adopting the rules. Further, program activity has been minimal with a total of five applications received in the past two years. DCCA has handled these applications by contracting with an engineer to review plans on a per diem basis, the expense of which is borne by the applicant, and by referring the building plans to the county Building Department before granting project approval.

DCCA has stated that any future need to revise or update factory-built housing laws can best be accomplished by direct consultation of the Department with architectural and engineering associations, building construction trades, and contracting and manufacturing industries.

Your Committee has amended the bill by including other sections of chapter 359L to make technical changes that have no substantive effect.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 813, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 813, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 700 Human Resources on H.B. No. 321

The purpose of this bill is to separate the matter of visitation from the matter of child support in public assistance cases.

Child support and parental rights of visitation and custody are clearly separate issues which are frequently combined. Noncustodial parents refuse to pay child support owed to the State claiming denial of visitation as a defense. Under current law, noncustodial parents are required to pay child support to the State as partial repayment for tax dollars used for support. The noncustodial parent's refusal to pay support as an attempt to coerce visitation is unreasonable.

This bill specifies that whenever public assistance is paid to or for the benefit of any child, the duty of support owed by a noncustodial parent is not affected by disputes over child visitation rights.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 321, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 701 Human Resources on H.B. No. 411

The purpose of this bill is to change the number of required meetings of the advisory committee on training.

Under present law, the advisory committee is to meet at least quarterly. This bill requires the committee to meet only once each year and at other times upon the chairperson's call.

According to testimony, most of the committee's business can be transacted during

one meeting, despite the diversity of membership.

This bill gives the committee's chairperson the flexibility to call additional meetings, if needed.

Your Committee has amended the bill to make technical changes which have no substantive effect.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 411, as amended herein, and recommends that it pass Second Reading in the form attached hereto are H.B. No. 411, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 702 Human Resources on H.B. No. 1582

The purpose of this bill is to provide the means for the Department of Social Services and Housing to act on its own behalf in matters involving the collection of child support.

Under the present statute the Department is subrogated to the rights of the child or the child's custodian. The issue of subrogation gives rise to other varied legal problems which hinder the Department's efforts to fulfill the responsibilities of the child support enforcement program. The provisions in this bill would preclude some of these problems by allowing the Department to act on its own behalf in the collection of child support.

This bill further clarifies the role of the Office of Corporation Counsel or the county attorney in representing the State.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1582, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 703 Human Resources on H.B. No. 1583

The purpose of this bill is to clarify and strengthen the State's authority to limit Medicaid reimbursements for health care services and supplies and to authorize a demonstration project to substantiate cost savings from enrollment in health maintenance organizations.

Your Committee finds that, since the Omnibus Reconciliation Act of 1981, there has been no Medicare reimbursement limit to out patient health care services and supplies. Your Committee feels that the provisions of this bill would clarify and strengthen the authority of the State to continue to adhere to federal limits on reimbursement, and thereby provide for more cost-effective reimbursement practices in the administration of the State's medical assistance program.

Your Committee recognizes that participation in health maintenance organizations can reduce medical care costs significantly and believes that such participation should be encouraged among persons receiving medical assistance. However, at present, there is no incentive to participate in health maintenance organization programs under the State's medical assistance program. Your Committee finds that the provisions of this bill establish a demonstration project which would encourage participation in health maintenance organizations and validate assertions of lower health costs under those programs.

Your Committee is in agreement with the amendments made by the Committee on Finance to relate to charges under the Medicare program to the same profile base year selected by the legislature for Medicaid profiles.

Your Committee has amended this bill by including enrollment in a prepaid health plan for those AFDC families who voluntarily agree to participate in the project.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1583, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1583, H.D. 2, S.D. 1, and be

placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 704 Consumer Protection and Commerce on H.B. No. 499

The purpose of this bill is to include osteopathic physicians and osteopathic physicians and surgeons licensed to practice under Chapter 460 in the medical claim conciliation panel program.

Presently, because physicians licensed under Chapter 460 are excluded from the medical claim conciliation panel program, when a complainant wishes to file a claim against that physician, they must go directly to circuit court, which is a time-consuming and costly procedure.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and the Board of Osteopathic Examiners in support of the bill which would include osteopathic physicians and surgeons in the medical claim conciliation panel program and provide for a timely hearing at minimum expense to all parties involved.

Your Committee made technical changes to the bill which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 499, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 499, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Yamasaki.

SCRep. 705 Consumer Protection and Commerce on H.B. No. 621

The purpose of this bill was to provide that any person engaged in the practice of speech pathology or audiology on September 1, 1981 as an employee of a local or state government agency shall be deemed in compliance with the licensure requirements without the need for a written examination provided these employees remain employed by the government agency.

Currently, the law states that all speech pathologists and audiologists employed by a government agency shall comply with the licensing requirements by December 31, 1984. Your Committee finds that while private sector professionals need to be licensed as an assurance for the protection of the general public, in the government sector, speech pathologists and audiologists are already required to pass stringent certification requirements and academic standards.

Your Committee heard extensive testimony from the Board of Speech Pathology and Audiology, the Hawaii State Teachers Association, and other interested parties in unanimous support of this measure.

Your Committee amended the bill on page 1, line 7, by adding the words, "or before" after the word "on" and on line 8, after the word "of", by adding the words "or under contract to". The purpose of these amendments is to clearly identify the classes of persons to which this bill applies. Your Committee notes that for the purposes of this bill, under contract is synonymous with employed. Further, your Committee intends that this measure apply to employees currently working for various government agencies only so long as they continue such employment, and if an individual leaves government service, the licensing requirements shall be complied with.

Your Committee also made technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 621, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 621, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Yamasaki.

SCRep. 706 Consumer Protection and Commerce on H.B. No. 812

The purpose of this bill is to ensure that the legal staff of the Department of Commerce and Consumer Affairs has the authority to fully and effectively discharge their duties.

Act 60, Session Laws of Hawaii 1982, created a legal staff for the Department of Commerce and Consumer Affairs (DCCA) to prosecute cases involving consumer complaints relating to the activities of the various boards and commissions housed within the Department. These complaints often involve unlicensed persons engaged in activities for which a license is required from a board or commission.

Act 204, Session Laws of Hawaii 1982, gave the DCCA concurrent jurisdiction with the Office of Consumer Protection to take legal action against persons engaged in unlicensed activities. However, under present law, the DCCA attorneys are not authorized to utilize the full panoply of statutory provisions available to the Office of Consumer Protection to curtail unlicensed activities and obtain relief for consumers.

This bill would grant authority to DCCA attorneys to utilize the full range of statutory provisions available to the Office of Consumer Protection. Specifically, this bill would authorize DCCA attorneys to enter into assurances of voluntary compliance with alleged violators, obtain restitution for consumers in court judgments, enforce the civil provisions of Section 480-2, Hawaii Revised Statutes (relating to unfair and deceptive business practices), and enjoin violations of that section, collect civil penalties for violations of Section 480-2, and enter into consent judgments with violators of Section 480-2.

Your Committee finds that the provisions of this bill would enhance the ability of the Department of Commerce and Consumer Affairs to protect consumers.

Your Committee amended the bill for the purpose of conformance to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 812, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 812, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Yamasaki.

SCRep. 707 (Majority) Consumer Protection and Commerce on H.B. No. 913

The purposes of this bill were to allow a licensed industrial loan company to sell loans, which are primarily secured by real property, to any person or company licensed or authorized by another state or the federal government to make or service loans, and to allow the purchaser of the loans to collect interest and enforce the terms of the loan to the same extent as the seller of the loan.

Currently, industrial loan companies are prohibited from selling loans, at interest rates higher than general usury laws, to any person unless that person can make the same loan. The purpose of this prohibition was to prevent a person or company from circumventing the law by using an industrial loan company as a conduit for obtaining higher rate loans.

Your Committee finds that there is a need to allow industrial loan companies to sell their loans to out of state investors who are properly authorized or licensed under other state or federal authorities to make or purchase loans, particularly in view of the increasingly active federal second mortgage purchase programs.

Your Committee has amended the bill by making language changes for the purpose of clarity which do not affect the intent of the measure and by:

1) Deleting the requirement that the loans permitted to be sold be secured "primarily" by real property in order to insure that the loans are not construed to mean only first mortgage loans.

2) Adding that the person or company buying the loan is permitted, as well as licensed or authorized, by any other state to make such loans. This allows the sale of such loans to persons or companies located in states which do not actually

authorize but rather permit certain activities in the absence of specific restrictions.

3) Adding that loans may be sold to a person or company authorized to purchase, as well as make or service such loans. This amendment was made because some entities are only authorized to purchase loans.

Your Committee further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 913, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 913, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Yamasaki.
Senator Cayetano did not concur.

SCRep. 708 Ecology, Environment and Recreation on H.B. No. 258

The purpose of this bill is to provide the Board of Land and Natural Resources with the power to prohibit entry upon public lands in order to preserve native aquatic life, plants, wildlife, and the environment.

Presently the Board of Land and Natural Resources is not specifically empowered to prohibit entry upon public lands.

Your Committee finds that there are situations where the most effective way to protect and preserve our native aquatic life, plants and wildlife is to prohibit entry into public lands. Prohibiting entry to an area for a period of time will also enable preservation of an environment which is threatened by heavy or harmful use.

This bill requires the Board to designate, by rules, the public land areas that would be closed to the public. This requirement would assure public notice and participation and would also permit the agency to adopt rules which would be effective for a period of 120 days without prior notice or hearing in emergency situations.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 258, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 258, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

SCRep. 709 Ecology, Environment and Recreation on H.B. No. 519

The purpose of this bill is to include a portion of Kailua Bay, Hawaii, among those areas where taking aquatic life from the waters is restricted.

Your Committee finds that a present conflict exists between pole-and-line fishermen, fishing from the Kailua Bay seawall, and net fishermen, fishing in the waters in the immediate vicinity. The conflict involves alleged intrusion by commercial fishermen into the shoreline areas abutting the Kailua seawall. The bill would address this concern by authorizing the Department of Land and Natural Resources to restrict commercial fishing in certain areas of Kailua Bay. The intent of this measure is to allow the Department to set boundaries to accommodate the different modes of fishing and resolve the conflict between recreational and commercial fishermen.

Your Committee has amended the bill to make technical changes that have no substantive effect

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 519, H.D.1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 519, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 710 Ecology, Environment and Recreation on H.B. No. 1128

The purpose of this bill is to permit the mooring of commercial vessels in state small boat harbors on the neighbor islands.

Presently, Section 266-21, Hawaii Revised Statutes, excludes the mooring of commercial vessels in small boat harbors except in cases where there is no commercial harbor located within a distance of three statute miles.

This bill would allow commercial vessels to moor in small boat harbors on the neighbor islands without regard to the proximity of commercial harbors. However, the present restriction on commercial mooring in small boat harbors is retained for the island of Oahu, due to the crowded conditions that currently exist.

A Department of Transportation spokesman testified that recreational boating activities will not be inconvenienced by the mixed use of our small boat harbors. Your Committee finds that this bill permits a more efficient use of boating facilities and that additional revenues will be realized through the assessment of commercial fees.

Your Committee has amended the bill by making a technical change which has no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1128, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1128, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 711 Consumer Protection and Commerce on H.B. No. 1090

The purpose of this bill is to clarify the law relating to pool buying agreements between liquor licensees from different counties.

Under current statutory provisions, liquor licensees are allowed to pool buy their liquor purchases. Smaller retailers as a group can purchase large quantities of liquor at lower costs and better compete with the large establishments.

Your Committee received testimony from the Retail Liquor Dealers Association of Hawaii expressing concern over a situation which arose in a pool buying transaction between licensees of Hawaii County and Honolulu. A pool buy transaction between Honolulu and Hilo was ruled illegal by the Hawaii County Liquor Commission because the transaction was not considered completed until the product was actually in the licensee's warehouse in Hilo. The Honolulu Commission's position was that the transaction was completed when the product was in the possession of the trucking firm with the licensee as the consignee. This bill would clarify the law by stating that a pool buying transaction would be completed once the product is in the possession of the transporting company.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1090, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Holt, Uwaine and Yamasaki.

SCRep. 712 Consumer Protection and Commerce on H.B. No. 1340

The purpose of this bill was to allow applicants for a certificate of Certified Public Accountant (CPA) to satisfy the graduate study requirement with three additional years of public accounting experience. It also proposed to delete the provision that equivalent experience as an auditor or examiner in industry or government may be substituted for professional public accounting experience.

Your Committee heard testimony from the Board of Accountancy and the Hawaii Society of Certified Public Accountants that there is a need to allow CPA candidates the option of replacing the graduate studies requirement with three years of public accounting experience, in addition to the two years of experience already required. This will assist candidates who may be financially unable to commit themselves to a fifth year of study or who may experience difficulty obtaining the necessary

courses.

Your Committee is in agreement that the equivalent experience provision should be deleted because it is too difficult to determine equivalency.

Your Committee has amended the bill by making clarifying language changes to the proposed new subsection (j) which allows replacing the graduate studies requirement with public accounting experience and by decreasing the alternative additional experience requirement from three years to two years because five years total experience may be too onerous for some candidates. Your Committee is aware that CPA requirements are being modified in other states and will keep abreast of national developments.

Your Committee has further amended the bill by deleting the requirement that a candidate be of "good moral character," which is difficult to define, and substituting the words "has a reputation for competence, trustworthiness, and fairness," and has made a technical change which has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1340, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1340, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano and Holt.

SCRep. 713 Ecology, Environment and Recreation on H.B. No. 844

The purpose of this bill is to enable the Stadium Authority to dispose of unclaimed lost and found property after 45 days.

Presently, lost and found property must be stored for seven years after which time it is considered abandoned property. Your Committee finds that claims for lost items are usually made by owners within a couple of days. Seven years accumulation of lost articles takes too much needed space unnecessarily.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 844, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 844, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 714 Judiciary on H.B. No. 1102

The purpose of this bill is to extend the duration of a protective order by a family court to prevent domestic abuse from 90 to 180 days.

Presently, the duration of protective orders often requires repeated applications for extension. This bill will permit the court to enter a protective order effective for up to 180 days from the date of the initial order.

Your Committee amended the bill to extend the time from 180 days to one year. This will afford the victim of domestic abuse more protection where the parties cool their hostilities and re-adjust their lives.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1102, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1102, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 715 Judiciary on H.B. No. 1438

The purpose of the bill is to amend section 574-5, Hawaii Revised Statutes, which relates to procedures and requirements for name changes:

1. To require a notarized consent from the noncustodial parent to a petition for change of name of a minor;
2. To authorize that the documents used in all name changes be kept confidential;
3. To allow the parent to petition the Family Court for a name change of a minor when the other parent does not consent;
4. To add that a name can be changed upon marriage; and
5. To reword and restructure the section for clarity.

Your Committee finds that the Lieutenant Governor's office, the State agency which processes change of name requests, already requires that a notarized consent from the noncustodial parent be submitted and that all documents be kept confidential; this bill merely codifies the practice.

Additionally, the bill makes specific reference to section 574-1, which requires that upon marriage, the parties will declare their married name.

Your Committee declined to change the section by permitting a parent to petition the court for the name change of a minor when the other parent does not consent. Testimony by the Lieutenant Governor's office indicated that only a very small number of cases fall into this category. Furthermore, your Committee foresees abuse of this process, for example, by a parent who wishes to harass the other parent by going to court to change the name of a child.

Your Committee made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1438, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1438, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 716 Judiciary on H.B. No. 1221

The purpose of this bill is to provide a statutory timetable for determining the disposition of property seized pursuant to chapter 329 of the Hawaii Revised Statutes. This bill also expands the types of uses which subject property to seizure.

Presently, property used in connection with certain drug offenses may be seized by the state or a county. However, there is no timetable specifying deadlines for the following:

- 1) Reporting seizure of property to the prosecuting attorney;
- 2) Filing a petition for forfeiture with the circuit court;
- 3) Notification of and response from the owner of the property.

According to testimony, the absence of a timetable has caused lengthy and unreasonable delays in bringing cases to court.

Your Committee finds that enactment of this bill will expedite justice as well as protect the interests of the property owner (if the court determines the property should be returned), and the State or county (if the court determines the property should be forfeited). The bill also closes loopholes in the law by adding the words "grown" and "cultivated" to the types of uses making property subject to seizure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1221 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 717 Judiciary on H.B. No. 535

The purpose of this bill is to extend, from 15 to 40 days, the time allowed for

the preparation and transmission of the record of an administrative hearing when the agency decision is being appealed.

Presently, state and county agencies have 15 days to: gather and index all correspondence, documents, and exhibits; transcribe the recording of the hearing; and file the record in court. This period is not always sufficient when the record is voluminous.

Your Committee finds that an extension is warranted; however, the suggested increase to 40 days is excessive. If an appealing party files a preliminary motion, such as a stay of the agency's order pending appeal, a 40 day wait for a hearing on the motion could render it useless.

Your Committee amended the bill to increase the present 15 day period to 20 days. Also, a nonsubstantive, technical amendment was made.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 535, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 718 Judiciary on H.B. No. 1050

The purpose of this bill is to increase the fine for carrying a concealed deadly weapon from \$250 to a minimum of \$500 and a maximum of \$1,000.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1050, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 719 Judiciary on H.B. No. 830

The purpose of this bill is to provide statutory authority for supervision by the Adult Probation Division of persons conditionally released from hospitalization after commitment on the grounds of physical or mental disease, disorder, or defect.

Your Committee believes that supervision of a conditionally released person is desirable and essential for the well-being of the individual as well as the community.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 830, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 720 Judiciary on H.B. No. 796

The purpose of this bill is to clarify the authority of the Chief Justice to temporarily assign district judges to Family Court.

This bill makes changes to section 571-8, Hawaii Revised Statutes, to make it clear that the Chief Justice may:

- 1) designate a district judge to substitute for and act as a district family judge; and
- 2) temporarily assign any district judge or district family judge to the district family court of another circuit.

Your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 796, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 796, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 721. Judiciary on H.B. No. 576

The purpose of this bill is to include within the offense of promoting gambling in the first degree, having due and payable more than \$1,000 in any one day, pursuant to any gambling scheme or enterprise.

Presently, a person must actually receive more than \$1,000 in any one day in order to be prosecuted for gambling in the first degree; as a consequence the police must observe the physical transfer of the money.

Your Committee finds that the police often confiscate gambling records indicating that more than \$1,000 is due and payable to an individual in one day of a gambling scheme. The individual, however, escapes prosecution because the police did not witness the individual "receive" the money.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 576, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 576, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 722. Judiciary on H.B. No. 313

The purpose of this bill is to permit the Department of Social Services and Housing (DSSH) to determine the place of confinement of incarcerated persons.

Presently, the DSSH is prohibited from transferring persons, incarcerated for a definite term, from one correctional facility to another. This prohibition has resulted in situations where the DSSH is unable to move a person to a facility better suited, in terms of program and security, to the individual.

Your Committee made nonsubstantive technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 313, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 313, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep 723. Judiciary on H.B. No. 243

The purpose of this bill is to permit the Family Court to determine the surname that is in the best interests of children in paternity actions.

Presently, under section 338-177, Hawaii Revised Statutes, a legitimated child born out of wedlock is given the father's surname if the parents do not agree on a surname. However, under section 338-21, Hawaii Revised Statutes, children are given their mother's surname in the absence of a court order or a request providing otherwise. The bill deletes both references to a priority of selection of surnames based on the parents' sex.

The present laws are being challenged in court on the grounds that they violate the constitutional guarantees of free speech and equal protection. This bill will allow the court to determine the surname of the child based on the child's best interests in cases where the parents do not agree.

This bill also permits non-custodial mothers and fathers to request birth certificates after a paternity determination. Presently, only the mother or a custodial father may make such a request.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 243 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 724 (Majority) Consumer Protection and Commerce on H.B. No. 1531

The purpose of this bill is to provide for a temporary moratorium on increases in workers' compensation insurance premium rates.

Workers' compensation insurance premium rates have increased over eighty-seven percent during the past five years and an average rate increase of twenty-nine percent has already been approved by the Insurance Commissioner for 1983.

Your Committee received extensive testimony indicating that any further increases in workers' compensation insurance premium rates, may force many employers, particularly smaller businesses to close their operations which would threaten the economic stability of the State.

Numerous bills have been introduced during the regular session of 1983, relating to workers' compensation. Many of these propose long term solutions to the problem of escalating workers' compensation insurance premium rates. The Legislature must have the opportunity to carefully consider the proposals to determine which are in the best interests of the workers, the businesses, and the State.

Your Committee is in agreement that the temporary moratorium on workers' compensation premium rate increases is a measure providing appropriate temporary relief of workers' compensation problems to protect the economic well-being of the State. Accordingly, the moratorium shall take effect from January 1, 1984 to December 31, 1984, while an in-depth study is conducted to find solutions to the problems besetting the workers' compensation system.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1531, 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.

Senators Carpenter, Uwaine, Henderson and Soares did not concur.

SCRep. 725 Consumer Protection and Commerce on H.B. No. 1528

The purpose of this bill was to amend Sections 431-693 and 431-694, Hawaii Revised Statutes, to provide that due consideration shall be given to investment income in determining workers' compensation insurance rates and by requiring that every workers' compensation insurance rate filing shall include a report of investment income.

Although insurance companies have in recent years been operating at an underwriting loss in many lines of insurance, including workers' compensation insurance, most companies have realized a return on net worth of healthy proportion due to investment income.

Your Committee received testimony from the Department of Labor and Industrial Relations and the Insurance Division of the Department of Commerce and Consumer Affairs in support of this measure which will provide the division with a statutory basis on which to formulate the appropriate rules governing the recognition of investment income.

Your Committee amended the bill by adding the phrase "including, without limitation of the foregoing, that" to the beginning of the proposed new language to be added to Section 431-693(a) on page 1 of the bill. The reason for the amendment is to retain any power the Insurance Commissioner may have under the present statute to consider investment income in the making of rates. Section 431-693(a)(1) presently provides that in making rates due consideration shall be given, among other things, to "all other relevant factors within and outside this State." The Insurance Division has had the opportunity to use the quoted language to take investment income into account in the ratemaking process. The specific statutory direction proposed by this bill that investment income be considered in the workers' compensation insurance ratemaking process might be interpreted that such income must be completely disregarded in all other areas of casualty insurance ratemaking. The intent of the amendment made by your Committee is to clarify that investment income can be taken into consideration in all other casualty insurance ratemaking to the extent permitted under the present statute.

Your Committee also amended the bill to conform to current statutory language.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1528, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1528, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 726 Consumer Protection and Commerce on H.B. No. 389

The purpose of this bill is to allow cancelled checks or drafts to serve as customer receipts for loan payments made to industrial loan companies and small loan companies.

Currently, the law requires a loan company to provide receipts to borrowers as evidence of payment made by any means.

This bill would permit industrial loan and small loan companies to omit receipts for loan payments when such payments are made by check or draft, unless specifically requested for by the borrower. Customers would still have copies of their cancelled checks or drafts for their records, and the lenders cost of servicing the loan would be reduced, benefitting all parties.

Your Committee made technical changes to the bill which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 389, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 389, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Toguchi and Yamasaki.

SCRep. 727 Consumer Protection and Commerce on H.B. No. 282

The purpose of this bill was to provide for a uniform procedure which is applicable to all boards in renewing a license or permit under suspension during the renewal period.

Currently, there is no uniform procedure for renewing a license or permit which is under suspension. Consequently, there has been confusion as to when renewal fees should be collected and when other renewal requirements should be fulfilled.

This bill will suspend payment of renewal fees while a license or permit is suspended and require a licensee or permittee to pay the renewal fee and to satisfy other renewal requirements in order to qualify for reinstatement after the termination of the suspension period.

Your Committee has amended this bill to allow, rather than require, all boards to reinstate the suspended license or permit at the end of the suspension period, upon filing a reinstatement form provided by the board, paying the necessary renewal fees, satisfying the other necessary renewal requirements and complying with any conditions in the order of suspension. Your Committee has also added a provision which states that failure by the licensee or permittee to apply for reinstatement within thirty days after the end of the suspension period will cause the license or permit to be forfeited.

Your Committee has further amended this bill by making technical and language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 282, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 282, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Toguchi and Yamasaki.

SCRep. 728 Consumer Protection and Commerce on H.B. No. 1115

The purpose of this bill was to increase the maximum amount a state-chartered

savings and loan association can invest in a service corporation from one percent to six percent of the association's total assets.

Federal regulations presently permit a federal savings and loan association to invest not more than three percent of its total assets in service corporations. A national bank is presently permitted to invest not more than five percent of its total assets in bank service corporations with the restriction that it may not invest more than ten percent of its paid-in and unimpaired capital and surplus in any one bank service corporation.

Your Committee heard testimony from several savings and loan associations stating that increasing the amount a state chartered savings and loan association may invest in a service corporation will enable savings and loan associations to engage in a wider range of activity and diversify investments. This bill will allow them to offer a broader range of service to the public and maintain a competitive position in the financial services market.

Your Committee has amended this bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1115, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1115, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Toguchi and Yamasaki.

SCRep. 729 Consumer Protection and Commerce on H.B. No. 713

The purpose of this bill is to specify the conditions under which a corporation may issue distributions to its shareholders from the corporation's capital surplus.

Presently, corporations may pay dividends only from current profits or retained earnings. In years where a corporation makes no profit and has no retained earnings, dividends cannot be paid unless the corporation reduces its capital which is an involved and cumbersome process.

Your Committee received favorable testimony from Castle and Cooke, Inc., and the Business Registration Division of the Department of Commerce and Consumer Affairs in support of this bill which will give Hawaii corporations some flexibility in making dividend payments to stockholders.

Your Committee has amended the bill on page 3, line 13 (page 3, line 15 of the bill as amended), by changing the word "or" to "and". The bill has been further amended to make technical changes to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 713, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 713, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Yamasaki and Soares.

SCRep. 730 Consumer Protection and Commerce on H.B. No. 768

The purpose of this bill is to delete statutory provisions providing for an interim allocation of burdens plan pending the adoption of criteria for proportionate reimbursement by the Insurance Commissioner.

Your Committee finds that the motor vehicle accident reparations laws were enacted in 1973, including a provision requiring the Insurance Commissioner to adopt within two years, a system of proportionate reimbursement among insurers and self-insurers for payment of losses. The Commissioner has since promulgated regulations for the proportionate allocation of burdens.

Your Committee further finds it is now appropriate to remove the statutory provisions enacted in 1973. Testimony in support of this measure was received by the Department of Commerce and Consumer Affairs and the Hawaii Transportation Association.

Your Committee amended the bill to change the heading of Section 294-35, Hawaii Revised Statutes, to reflect the amendment proposed by this bill and to add quotation marks at the end of the section of the law being amended.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 768, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 768, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Yamasaki and Soares.

SCRep. 731 Government Operations and County Relations on H.B. No. 1311

The purpose of this bill is to change the required seventy-two hour public notice filing and posting requirement for meetings of public agencies to six calendar days.

Your Committee amended the bill by incorporating new material which would provide for closed meetings of the Council on Revenues and to provide for nondisclosure of confidential tax information which may be presented or discussed. The purpose of the amendment is to allow the Council to meet in private due to the sensitive nature of information that is presented.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 1311, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1311, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hagino.

SCRep. 732 Agriculture on H.B. No. 42

The purpose of this bill is to provide the Department of Agriculture the authority to sample and test all animal feed, and to remove adulterated feed from distribution.

In recent months, potential health hazards have resulted from pesticide residues in feeds being passed upward through the food chain to consumer products. Presently, Chapter 144, Hawaii Revised Statutes, exempts the feeds involved and certain other feeds from testing for adulteration. This bill would amend Chapter 144 to allow the Department of Agriculture to sample and test all animal feed, other than that of domestic pets, for adulteration and to remove the adulterated feed from the food chain.

This bill also adds a provision for administrative penalties for all violations of Chapter 144 and rules adopted thereunder. The current provision for criminal penalties does not allow the Department to take action immediately once violations are discovered. This amendment will improve the Department's ability to enforce Chapter 144.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 42, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 42, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 733 Agriculture on H.B. No. 43

The purpose of this bill is to amend current statutes to reflect the transfer of the agricultural product promotion and market development functions from the Department of Planning and Economic Development to the Department of Agriculture.

Under current statutes, the Department of Agriculture is not specifically given responsibility for agricultural product promotion and market development. In the past these functions were performed by the Department of Planning and Economic Development. Responsibility for agricultural product promotion and market development was transferred to the Department of Agriculture on April 16, 1982 by Executive Order 82-2 issued by the Governor pursuant to Act 98, Session Laws of Hawaii

1981.

This bill will change the statutes to reflect the transfer of the functions to the Department of Agriculture.

Your Committee has amended the bill by further specifying that the Department of Agriculture shall make, amend and repeal rules for and concerning the procedures and methodology under which State funds are collected for agriculture product promotion, and for research and guideline standards for the operations and management of agricultural marketing facilities and organizations funded by the State.

Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 43, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 43, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 734 Agriculture on H.B. No. 208

The purposes of this bill are to standardize the definition of commodities subject to grades and standards; to allow the Department of Agriculture to impose administrative penalties for violations of Chapter 147, Hawaii Revised Statutes, including raising the level of fines; and to allow the Department of Agriculture to adjust the commercial exporter license fee by administrative rule.

Presently, various parts of Chapter 147 define agricultural products differently and the Attorney General's office has interpreted the definitions as covering different products.

This bill will standardize the definitions of agricultural commodity to consistently include fruits, vegetables, nuts, and coffee.

Currently, the procedure for imposing fines for violations of the department's rules and regulations require civil or criminal action. The prosecutor's office has been unable to handle requests for assistance in prosecuting violators due to their heavy caseload. The consequent inability to impose fines under Chapter 147 greatly reduces the ability of the Department of Agriculture to achieve compliance with the law. Further, these fines were instituted in the early 1960's and need revisions to be current with the overall structure of fines in the statutes.

This bill will allow the Department of Agriculture to impose administrative penalties, including fines, for violations of Chapter 147 and increases the fine provisions in Section 147-2 from \$500 to \$1,000.

The license fee for commercial exporters of flowers and foliage is not currently in line with similar license fees for dealers in farm produce. This bill will allow the department to adjust the license fee through rule which will assure equity with similar license fees.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 208, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 208, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 735 Agriculture on H.B. No. 209

The purposes of this bill are to allow the Department of Agriculture to set surety bond levels for commission merchants; to equalize penalty provisions for failure to renew a license; and to establish administrative penalties for violations of Chapter 145, Hawaii Revised Statutes.

Chapter 145 was intended to assure fair and prompt payments for farm products.

However, the enforcement of this chapter has been hampered due to several reasons: the lack of administrative penalties, the reluctance of the public prosecutor to prosecute violators, and the commission merchant surety bond requirement being set too low to offer adequate protection to claimants.

Furthermore, some persons do not even apply for a license since the department only has the power to revoke or suspend a license. Moreover, the penalty clause for late renewal of license is currently not being applied to all classes of business.

This bill amends the current statutes by granting the Department of Agriculture the power to impose fines upon retail merchants for late renewal of licenses. The current statute applies this penalty to commission merchants, dealers, brokers, and processors but not retail merchants. This bill also authorizes the department to set the amount of the surety bond required from the commission merchant and after notice and hearing, to fine any person who violates Chapter 145 or any rule adopted under that chapter, not more than \$5,000 for each separate offense.

Your Committee has amended the bill by specifying that the surety bond level for commission merchants not exceed \$10,000. The purpose of this amendment is to set a ceiling on the bond amount which can be established by the department.

Your Committee has also amended the bill to correct typographical errors and to make nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 209, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 209, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 736 Agriculture on H.B. No. 210

The purposes of this bill are to clarify the labeling requirements for eggs sold by a producer, to allow the Department of Agriculture to set specific requirements to enforce labeling of imported eggs, to allow the Department to impose administrative penalties for violations, and to raise the level of fines.

The labeling requirements for the sale of eggs by a producer are not clear. A producer of eggs is not required to label the eggs no matter where the producer sells them, while retailers who do not produce eggs must label them. This bill clarifies the labeling requirements for eggs, by requiring producers to label eggs which are for sale at places other than the place of production.

The current laws relating to the marking of imported eggs are overly restrictive and unenforceable. This bill amends Sections 147-74 and 147-75 to authorize the Department of Agriculture to set the specific requirements for marking imported eggs by rule, thereby affording the Department the flexibility to structure the requirements to ensure efficient and effective enforcement.

Currently, the penalties for violations of Chapter 147, are not more than \$100 for the first offense, not more than \$200 for the second offense and not more than \$300 or imprisonment for not more than ninety days for the third and subsequent offenses. This bill will stiffen the penalty by raising the amount of fines for all offenses to not more than \$1,000 and increasing imprisonment to not more than one year, or both. This bill also adds two new sections to Chapter 147, Part V, which allows the Department to impose and collect administrative penalties of not more than \$1,000 for each separate offense in addition to other sanctions which may be imposed.

Your Committee agrees with the Department of Agriculture that the proposed changes are necessary to improve enforceability, increase the level of compliance and to assure equity.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 210, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 210, H.D. 1, S.D. 1, and be placed on

the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 737 Agriculture on H.B. No. 211

The purpose of this bill is to clarify that the Hawaii Revised Statutes, Section 142-12, Penalties, applies to all violations of Hawaii Revised Statutes, Chapter 142, Part I, Animal Diseases and Quarantine, where a penalty is not otherwise specified; and to increase the penalties for violation.

Presently Section 142-12 applies to all violations of Chapter 142, Part I, Animal Diseases and Quarantine. However, other sections contained in Part I also have specific penalties for violations of the respective sections, thereby causing confusion as to which penalty should control. The maximum penalties currently provided for in Section 142-12 is a \$500 fine, or 6 months imprisonment, or both.

This bill amends Section 142-12 by specifying that the section only applies to those sections of Part I, Chapter 142, Hawaii Revised Statutes, for which a penalty is not otherwise provided. The bill also amends Section 142-12 by raising the fines to \$1,000 and increasing the imprisonment term to not more than one year.

Your Committee amended the bill by making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 211, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 211, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 738 Housing and Urban Development on H.B. No. 319

The purpose of this bill is to amend section 46-15.2, Hawaii Revised Statutes, by correcting a drafting error in paragraph (2)(A) and (B).

During the 1982 legislative session, H.B. No. 3178, H.D. 1, S.D. 1, was passed and subsequently signed into law by the governor as Act 284. The purpose of the law is to allow the counties to issue bonds to support mortgage loan programs. The intent was to provide for the establishment of program qualifications by the counties if general obligation bonds are issued, but to require the counties to comply with the provisions of the Hula Mae Program if the counties issue revenue bonds for their loan program.

Upon review of Act 284, it was discovered that due to a transposition of chapter numbers, the opposite was accomplished.

House Bill No. 319, H.D. 1, proposes to amend section 46-15.2 by amending paragraph (2)(A) to read "chapter 47" (which relates to general obligation bonds) rather than "chapter 49" and paragraph (2)(B) to read "chapter 49" (which relates to revenue bonds) rather than "chapter 47".

Your Committee has made minor technical amendments to the bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 319, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 319, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Cobb.

SCRep. 739 Housing and Urban Development on H.B. No. 814

The purpose of this bill is to amend chapter 356, Hawaii Revised Statutes, by adding a new section which will allow the Hawaii Housing Authority, with the approval of the attorney general, to delete delinquent rent accounts of tenants residing in federal public housing projects from its accounts receivable records if the accounts have been delinquent for at least ninety days.

Under section 40-82, Hawaii Revised Statutes, the Hawaii Housing Authority is

unable to write off accounts unless the accounts have been in arrears for two years. This time period is substantially longer than for most other public housing agencies in the United States. The Hawaii Housing Authority testified that the Honolulu Area Office of the Department of Housing and Urban Development (HUD) reported that one of the highest priorities of HUD Region IX during the 1983 federal fiscal year will be to reduce the number of tenant accounts receivable to less than one percent for each public housing agency under Region IX. Due to the current two-year restriction which the Hawaii Housing Authority must adhere to in writing off delinquent accounts, the authority has the third highest percentage of delinquent accounts out of the seventeen largest public housing agencies in the region. Since discretionary funding from HUD is substantially based on public housing rent collection performance, the authority may face a loss of discretionary funding approximating \$8 million if the rate is not reduced. By enabling the authority to write off the accounts delinquent for at least ninety days, the authority will be able to lower the percentage of tenant accounts receivable from the current five percent figure to one percent.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 814, 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 Senators Holt and Cobb.

SCRep. 740 Housing and Urban Development on H.B. No. 1232

The purpose of this bill is to amend section 359G-4.1(a), Hawaii Revised Statutes, to allow the Hawaii Housing Authority to submit to the legislative body of the county preliminary plans and specifications, instead of final plans, for housing projects for approval or disapproval by the county.

Under present law, the Authority is allowed to seek exemptions in the development of housing projects from certain zoning and construction standards. Currently, the Authority is required to submit final plans and specifications for a proposed development project for county approval. A majority of the Authority's housing projects are developed by private developers who must spend large sums of money to prepare final plans which are subject to the approval of the county council. The developer must run the risk of expending money which may be borrowed at a high rate of interest for final plans on a project that may not receive the exemptions sought.

The Authority testified that preliminary plans, which may include master plans, for the projects would be sufficient for council members to base their decision upon, and that if preliminary plans were submitted, substantial amounts of money could be saved by the developer, the Authority, and the eventual purchaser.

Your Committee received comments from the County of Hawaii Planning Department which expressed concern that there may be substantial changes between the preliminary plans and the final plans. H.B. No. 1232, H.D. 1, provides that final plans and specifications will be deemed approved by the county so long as they do not deviate from the preliminary plans and specifications. Inasmuch as your Committee would like to provide the Authority with as much flexibility as possible in its administration of this statute in all of the four counties, your Committee has deleted this provision and recommends that each county determine its own compliance standards through the council resolution passed to approve the specific project. For example, if the County Council wishes to maintain absolute control to assure that the final plans are in full compliance with the preliminary plans, at the time of approval of the preliminary plans, the Council could provide that the approval is conditional upon the final plans being in substantial compliance with the preliminary plans which could be attached to the council resolution as an exhibit. The adopted resolution could be recorded at the Bureau of Conveyances, if necessary, to assure compliance. Conversely, if the Council wished to approve the project in concept and did not wish to concern itself with the final plans and specifications, the resolution could be drafted with only slight reference to the plans submitted.

Your Committee has also deleted the provision of H.B. No. 1232, H.D. 1, which allowed the county councils to establish by rule more specific policies and definitions not in conflict with section 359G-4.1(a)(3), Hawaii Revised Statutes.

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

Your Committee on Housing and Urban Development is in accord with H.B. No.

1232, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1232, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Cobb.

SCRep. 741 Housing and Urban Development on H.B. No. 1620

The purpose of this bill is to amend section 519-3, Hawaii Revised Statutes, to clarify the inclusion of cooperative housing corporations that are sublessees under the specific procedures for renegotiation of lease contracts.

Section 519-3 was enacted by Act 220, Regular Session Laws of Hawaii 1982. It is the belief of your Committee that it was not the intent of the legislature to exclude cooperative housing corporations that are sublessees from the protection of the statute.

The Hawaii Housing Authority testified in favor of this bill but recommended that clarifying language be extended to further include cooperative housing corporations that are sub-sublessees.

Your Committee agrees that all strata of subleases should be covered and has amended H.B. No. 1620, H.D. 1, to include language recommended by the Authority and the Department of the Attorney General.

Your Committee also heard testimony which expressed concern over an inconsistency in the definitions of "owner's basis" as used under section 519-2(a)(2) and section 519-3(d)(4), Hawaii Revised Statutes.

Section 519-2, Hawaii Revised Statutes, pertains to residential leases of real property. For purposes of this section, "owner's basis" is defined, in part, as the current fair market value of the lot valued as if the fee title were unencumbered. Section 519-3, Hawaii Revised Statutes, pertains to leases of real property by a cooperative housing corporation and defines "owner's basis", in part, to mean the value of the lessor's leased fee interest.

Your Committee has amended H.B. No. 1620, H.D. 1, to include section 519-2, Hawaii Revised Statutes, to change the term "owner's basis" to "lessor's basis". The purpose of the change in terminology is to make a clear distinction between "owner's basis" as it applies under the Land Reform Act and "lessor's basis" as it applies under this chapter.

In order to provide a more consistent and equitable basis for determining the fair market value of property in lease renegotiations, your Committee has amended the bill by changing "lessor's basis" in section 519-3(d)(4), Hawaii Revised Statutes, to mean the value as defined in section 519-2, Hawaii Revised Statutes.

Your Committee also deleted the definitions of "offsite improvements", "onsite improvements", and "owner's basis" in section 519-3(d), Hawaii Revised Statutes.

Your Committee made technical, nonsubstantive changes to this bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1620, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1620, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Cobb.

SCRep. 742 Ways and Means on H.B. No. 3

The purpose of this bill is to provide for the appointment of a new tax review commission on or before July 1, 1983 and for the replacement of members upon vacancy or dissolution before completion of the commission's duties.

The bill will require the next tax review commission to submit its evaluation and recommendations to the legislature 30 days prior to the convening of the 1985 legislature. This bill also appropriates funds for the purposes of the commission.

Article VII, section 3, of the State Constitution requires a tax review commission to be appointed to evaluate the State's tax structure and recommend revenue and

tax policies to the legislature. After passage of enabling legislation, the first commission undertook its duties in mid-1980. However, due to the fact that the commission had only 17 months in which to accomplish its task and a lack of appropriate funding, it returned to the legislature during the 1981 session requesting an extension of the deadline and funds. The request for time and funds was not approved and members of the first commission subsequently resigned. This measure is necessary to deal with the current problem created by the resignation of the first commission.

Your Committee is aware that a question has been raised as to whether the real property tax, which is under the jurisdiction of the counties, is a proper subject for review by a commission which reports to the legislature.

Your Committee believes any comprehensive review of the State's tax structure cannot ignore taxes imposed by local governments. Your Committee further believes that the study should not be limited to the general excise tax and the income tax, but should also address other taxes and other areas of concern.

Your Committee has amended this bill by appropriating \$300,000 for the purposes of this bill. Other minor, nonsubstantive amendments were made.

Your Committee on Ways and Means 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. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 743 Ways and Means on H.B. No. 1119

The purpose of this bill is to appropriate \$289,692.19 from the general revenues of the State of Hawaii to satisfy claims for legislative relief for overpayment of taxes, judgments against the State and settlement claims, and miscellaneous claims.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1119, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 744 Ways and Means on H.B. No. 1190

The purpose of this bill is to appropriate funds for emergency loan relief to qualified farmers as defined under section 155-1(2), Hawaii Revised Statutes.

Your Committee has increased the appropriation from \$1 to \$2.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1190, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1190, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 745 (Majority) Ways and Means on H.B. No. 45

The purpose of this bill is to appropriate funds for research necessary to keep the Hawaiian sugar industry economically viable.

Your Committee finds that the \$3 million appropriated by the Legislature in 1982 for sugar research has greatly assisted the sugar industry in minimizing its losses by offsetting the direct costs of research. Your Committee's intent is to provide funds for continuing this vital research.

Your Committee has amended this bill by increasing the amount appropriated from \$1 to \$2,070,000 contingent upon the passage of S.B. No. 1464 during the 1983 Legislative Session and has made other nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 45, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 45, H.D. 2, S.D. 2.

Signed by all members of the Committee.

Senator Kawasaki did not concur.

SCRep. 746 Ways and Means on H.B. No. 1399

The purposes of this bill are to (1) establish and fund a Molokai forest lands management program to accelerate improved management of Molokai forest lands under the department of land and natural resources; (2) include tree farming as an agricultural activity in the definition of an agricultural park; and (3) provide a temporary one-half percent yield tax rate on the stumpage value of trees cut and processed into wood chips, which will increase to two and one-half percent on July 1, 1985.

Your Committee finds that this bill will encourage the utilization of available natural resources for energy production, provide for affordable sources of energy, and create employment opportunities for the people of Molokai.

Your Committee has made technical changes to this bill where section 186-9, Hawaii Revised Statutes, was incorrectly set forth. Other nonsubstantial, technical amendments also have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1399, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1399, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 747 Ways and Means on H.B. No. 809

The purpose of this bill is to establish an inter-agency coordination committee for the development and implementation of a statewide occupational information system (OIS).

Your Committee heard companion bill S.B. No. 828.

Your Committee finds that presently there are many state agencies which provide some type of occupational and career information on an individual basis. The federal vocational educational law mandates the establishment of a statewide occupational information system. This bill would provide for the development and delivery of occupational and career information on a statewide basis and provide for the coordination of this information by the Hawaii state occupational information coordinating committee.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 809, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 809, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 748 Ways and Means on H.B. No. 114

The purpose of this bill is to provide financial assistance for the hemophilia-related medical care and treatment of persons suffering from hemophilia.

The cost of medical care and treatment of hemophilia is expensive and imposes a heavy financial burden on persons afflicted with the disease and their families. Your Committee finds that this bill is necessary to provide financial assistance to persons and families who cannot afford to pay the entire cost of the medical care and treatment with their own income. In this respect, your Committee intends that the standards of eligibility for financial assistance which the Department of Health is required to establish are to include a means test. Only those persons and families which meet the means test and other eligibility standards are to be provided financial assistance.

Your Committee has amended the bill by deleting the appropriation to the financial assistance fund. Your Committee intends to appropriate moneys for the fund through the General Appropriations Act.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 114, H.D. 2, S.D. 1, as amended herein, and recommends that it pass

Third Reading in the form attached hereto as H.B. No. 114, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 749 Ways and Means on H.B. No. 1313

The purpose of this bill is to appropriate moneys to reimburse private hospital-based nursing care facilities for skilled nursing care and intermediate care under the medical assistance program during the fiscal year 1983-1984 at the same reimbursement levels as the levels applicable on July 1, 1982.

Without this bill, hospital-based nursing facilities would face a significant reduction in the reimbursement levels for skilled nursing care and intermediate care under the medical assistance program because of federal action under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Your Committee finds that the reduction would place great stress on the financial conditions of hospital-based nursing facilities. Thus, this bill is necessary for the economic health of these facilities, at least for the fiscal year 1983-1984.

Your Committee has amended the bill by adding a proviso requiring hospital-based facilities which receive funds under this appropriation to provide at least the same level or levels of nursing care during the fiscal year 1983-1984 as that provided during the fiscal year 1982-1983.

In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1313, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1313, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 750 Ways and Means on H.B. No. 817

The purpose of this bill is to provide more flexibility by allowing the maximum qualifying income limits under the Hula Mae program to be increased according to a prescribed formula if the annual interest rate on the Hula Mae loan exceeds ten percent.

The intent of the bill is to allow qualification restrictions to be more sensitive to market forces, rather than be arbitrarily fixed and insensitive to relative demand.

Currently, an eligible borrower's adjusted household income in order to qualify under the Hula Mae program cannot exceed one hundred fifty percent of the median annual income for households of four persons in the State as published by the United States Department of Health and Human Services in November 1980.

Under this bill, the Hawaii Housing Authority may raise Hula Mae program income limits by four percent for every one-half percentage point increase over an annual interest rate of ten percent.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 817, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 751 Ways and Means on H.B. No. 1231

The purpose of this bill is to eliminate the repeal date for Act 278, Session Laws of Hawaii 1982, which concerns the expanded Hula Mae program.

Your Committee held a public hearing on the companion to this bill, Senate Bill No. 704. Your Committee has expressed its favor for S.B. No. 704, which has no substantive difference from this bill, in Senate Standing Committee Report No. 578. Thus, your Committee recommends passage of this bill for the same reasons expressed in that committee report.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1231, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 752 Ways and Means on H.B. No. 1621

The purpose of this bill is to reappropriate a portion of funds previously appropriated into the state mortgage guarantee fund by Act 283, Session Laws of Hawaii 1982, but which have not been utilized for the purposes of the fund. This bill would reappropriate the previously appropriated funds for the following purposes:

- (1) Mortgage guarantees under the state guarantee fund;
- (2) Development of low- and moderate-income and gap group housing by the nonprofit Pacific Housing Assistance Corporation;
- (3) A study to recommend changes to existing laws, ordinances, codes, and regulations in order to promote increased and more flexible provision of housing units for low- and moderate-income and gap group households; and
- (4) An evaluation of tax policy changes as they relate to the provision of housing.

Your Committee finds that H.B. No. 1621, H.D. 1, S.D. 1, does not constitute an appropriation of state funds which will be calculated against the fiscal year 1983-1984 expenditure ceiling. Under this bill, the fiscal year and expending agency are the same as exist in Act 283, Session Laws of Hawaii 1982, with the \$400,000 appropriated by the Act being utilized for additional activities which complement the purpose of the original appropriation, the provision of affordable housing for low- and moderate-income households.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1621, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 753 Ways and Means on H.B. No. 325

The purpose of this bill is to clarify existing state law concerning the Aid to Families with Dependent Children (AFDC) program.

Your Committee heard companion bill S.B. No. 208.

This bill repeals section 346-53(c) and section 346-55, Hawaii Revised Statutes (HRS), which were originally enacted to provide enabling authority for state participation in the federal AFDC program. These sections have not been updated to conform to federal amendments to the AFDC program, with the result that state law is inconsistent with federal law. Thus, the administration has proposed to repeal the sections and rely on other broad statutory authority under chapter 346, HRS, to operate the AFDC program.

Your Committee concurs with the administration's proposal for two primary reasons. First, confusion in the operation of the AFDC program will be eliminated and possible future litigation concerning the differences deterred. Second, the Department of Social Services and Housing will have the flexibility to conform to any other subsequent federal changes to the program without further enabling authority.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 325, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 754 Ways and Means on H.B. No. 1567

The purpose of this bill is to continue the investment yield rate of the seven percent for the purpose of actuarial valuations under the public employees' retirement law.

Under the present law, the investment yield rate was seven percent of the year ending June 30, 1982, but will become four and one-half percent for subsequent years. Your Committee feels that the seven percent interest rate under this bill reflects a realistic assumption of the net earnings of the system's investments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1567, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 755 Ways and Means on H.B. No. 80

Your Committee heard companion bill S.B. No. 522.

The purpose of this bill is to repeal the present inheritance and estate tax law and enact a new chapter on the estate and transfer tax which imposes an estate tax equal to the federal credit allowed for state taxes paid on the transfer of the taxable estate.

Your Committee heard testimony in favor of this bill from the Department of Taxation, the Tax Foundation of Hawaii, and the Tax Section of the Hawaii State Bar Association. All persons testifying agreed that this bill would greatly simplify the present inheritance tax and conform to the federal estate tax law.

While this bill may result in a slight revenue loss, the State will gain from the smaller amount of employee time necessary to compute and administer the present law. This will free employees to better administer other taxes under the department of taxation. It will also greatly simplify the problems faced by our citizens when filing estate taxes.

Your Committee has amended this bill by making numerous technical and clarifying amendments suggested by the Department of Taxation and the Hawaii Bar Association. In particular, the definition section has been amended to delete the blocking and numbering to facilitate future amendment. The definitions were also placed in alphabetical order.

The taxation of nonresidents has been clarified by clearly providing for the taxation of real property in this State whether or not in a trust, the corpus of which is included in the gross estate for federal tax purposes, the beneficial interest in a land trust owning land in the State, and tangible personal property in this State.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 80, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 80, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 756 Ways and Means on H.B. No. 765

Your Committee heard companion bill S.B. No. 523.

The purpose of this bill is to clarify certain sections of the income and general excise tax laws by preventing a taxpayer from allocating income when a joint return is filed and one spouse is a nonresident, although permitting an allocation when the status of both spouses change. The bill also substitutes the term "number" for "amount" as the term relates to the number of exemptions claimed. Finally, the bill deletes the term "nonprofessional" as it relates to the definition of a service business or calling.

Your Committee finds that this bill should clarify any ambiguity concerning changes in residency status of married couples and its effect in reporting income. In addition, the deletion of the term "nonprofessional" permits professional persons, as well as nonprofessional persons, to be classified as a service business.

Your Committee feels that passage of this bill will mean greater understanding and compliance of the tax laws by clarifying the ambiguities which exist in the statutes.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 765, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 765, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 757 Ways and Means on H.B. No. 5

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects proposed in the supplemental appropriations bills for the executive and judicial branches of government.

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

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

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

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

Your Committee has updated this bill to reflect current data and amounts.

Your Committee has also amended this bill to correct drafting errors.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 5, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 5, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 758 (Majority) Ways and Means on H.B. No. 225

The purpose of this bill is to maintain the temporary 14 percent interest rate that may be paid on general obligation bonds until June 30, 1984, after which the statutory rate of 9-1/2 percent shall apply.

Your Committee held a hearing on the companion bill, S.B. No. 109, and received testimony from the Department of Budget and Finance in support of removing the statutory interest rate limitation on general obligation bonds. Your Committee agrees with this position because historically, it has been demonstrated that prevailing market conditions rather than statutory interest rate ceilings determine the interest which state and local governments must pay on their bonds.

Moreover, your Committee finds that expenditures for capital improvement projects are expected to continue at a rate of about \$150 million per year. To ensure continued, orderly financing of these projects without relying upon borrowings from the state general fund, it is advisable to remove the interest rate ceiling on state general obligation bonds.

Your Committee has amended the bill in its entirety by providing for the elimination of the statutory interest rate limitation under section 39-5, Hawaii Revised Statutes, and by making the bill effective July 1, 1983. Since the State may sell bonds at interest rates up to 14 percent until June 30, 1983 under Act 71, Session Laws of Hawaii 1982, and with the interest rate presently about 10-1/2 percent an earlier effective date appears unnecessary.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 225, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 225, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Fernandes Salling and Kawasaki did not concur.

SCRep. 759 Ways and Means on H.B. No. 1568

The purpose of this bill is to provide the State greater flexibility in selling its

general obligation and revenue bonds by also allowing private or negotiated sale to parties other than governmental agencies.

Your Committee held a hearing on the companion bill, S.B. No. 1275. Testimony received from the Department of Budget and Finance explained that the present law permits the sale of general obligation and revenue bonds only to governmental entities that are not subject to taxation, hence there is little incentive for them to invest in tax-exempt bonds. The amendments proposed by this bill, in enabling the State to negotiate the sale of general obligation and revenue bonds to parties other than governmental entities, would provide the State with flexibility in the pricing and timing of issues of bonds, especially during periods when the bond markets are extremely volatile.

Your Committee has made numerous nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1568, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1568, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 760 (Majority) Ways and Means on H.B. No. 1151

The purpose of this bill is to authorize the issue of special purpose revenue bonds to assist Queen's Medical Center in the financing and refinancing of short-term borrowing of its health care facility and to assist Kaiser Foundation in constructing the second phase of its new facility at Moanalua.

Your Committee heard companion bills S.B. No. 827 and S.B. No. 857.

This bill authorizes the issuance of \$20 million in special purpose revenue bonds to assist Queen's Medical Center in constructing new facilities and \$22 million in special purpose revenue bonds for Kaiser Foundation for the construction of the second phase of a new facility at Moanalua.

Your Committee has amended the bill by eliminating the reference to certificate of need and by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1151, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1151, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Fernandes Salling did not concur.

SCRep. 761 (Majority) Ways and Means on H.B. No. 1297

The purpose of this bill is to authorize the issuance of \$43,320,000 in special purpose revenue bonds to assist St. Francis Hospital in the construction of a new hospital facility in Waipahu-Ewa.

Your Committee heard companion bill S.B. No. 1245.

Your Committee finds that St. Francis Hospital has long been recognized as a major provider of health care services. In view of the fact that Pearlridge Hospital is no longer in operation, the new hospital facility planned for Waipahu-Ewa would provide necessary services to the greater Leeward community.

Presently, St. Francis Hospital has a certificate of need application pending with the State Health Planning and Development Agency (SHPDA) for this facility. The authorization to issue special purpose revenue bonds in this bill is contingent on approval by SHPDA for this project. Upon approval of the issuance of the bonds, considerable savings will inure to St. Francis Hospital, resulting in lower health care costs to the consumer.

However, your Committee emphasizes that favorable consideration of this bill does not in any way indicate a preference for St. Francis' proposal, comparative to other proposals now pending before SHPDA which are part of the same "batch" review.

Your Committee has amended the bill by deleting the requirement for approval of the certificate of need in the bill itself and by authorizing refunding special purpose revenue bonds for bonds issued under Act 16, First Special Session Laws of Hawaii 1981. Your Committee has also made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1297, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1297, H.D. 2, S.D. 1.

Signed by all members of the Committee.

Senators Fernandes Salling, Kawasaki and Henderson did not concur.

SCRep. 762 Ways and Means on H.B. No. 1401

The purpose of this bill is to authorize the issuance of refunding special purpose revenue bonds to assist Wahiawa General Hospital in the refinancing of its health care facility and in the refunding of outstanding special purpose revenue bonds.

This bill could reduce Wahiawa General Hospital's outstanding indebtedness and make the operation of its new long-term care beds more viable.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1401, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1401, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senator Fernandes Salling did not concur.

SCRep. 763 Ways and Means on H.B. No. 6

The purpose of this bill is to establish a means whereby pollution control projects for the disposal of solid waste can be financed by the counties through the issuance of special purpose revenue bonds.

Your Committee finds that sanitary landfills are a costly and inefficient method of disposing of the ever-increasing amounts of solid waste and that alternative methods of disposal must be pursued. The success of pollution control projects which also provide for waste recovery and cogeneration of electricity has been proven; however, the high costs of design and installation require financial assistance in the form of tax-exempt financing.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 6, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 6, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 764 Ways and Means on H.B. No. 992

The purpose of this bill is to transfer the authority to determine the penalties and fees for unlicensed and stray dogs as well as the impoundment fees from the State to the counties.

Your Committee heard companion bill S.B. No. 695.

Currently, the counties are responsible for apprehending stray dogs and maintaining shelters for their impoundment while the State determines the fees and penalties. This bill will transfer the responsibility for the setting of fees and penalties to the counties. The bill also imposes responsibility on a parent or guardian for compliance with the laws pertaining to the licensing and regulation of dogs when the owner is a minor, clarifies the definition of "officer", and allows the counties to set the fee for issuing dog tags.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 992, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 992, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 765 Ways and Means on H.B. No. 1237

The purpose of this bill is to exempt out-of-state bicycles from having to be licensed in the State provided that the bicycle displays a license for the current year as required by the law of the state or country in which the bicycle tax has been paid.

Your Committee finds that the requirement to have out-of-state bicycles licensed for short periods is not practical, when they are already licensed in another state or country. Events such as the Ironman Triathlon, and bicycle touring where bicyclists are here for only a few days, are activities which benefit from this bill. The bill would also provide short-term relief for Hawaii visitors who bring their bicycles into the State.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1237, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 766 Transportation on H.B. No. 334

The primary purpose of this bill is to permit the department of transportation to decrease the minimum period for which the department must recognize the validity of numbers awarded to vessels by the Coast Guard or by another state under a Coast Guard approved numbering system. The bill also modernizes language relating to persons empowered to question and detain suspected persons aboard vessels by changing reference from "policeman" to "enforcement officer".

Your Committee concurs with the testimony received from the department of transportation supporting this bill which brings Section 267-10, Hawaii Revised Statutes, into conformance with federal requirements by decreasing the minimum period from ninety to sixty days and also changes reference from "policeman" to "enforcement officer" in Section 267B-1 and 267B-3, Hawaii Revised Statutes.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 334, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 767 Transportation on H.B. No. 337

The purpose of this bill is to amend section 286-133, Hawaii Revised Statutes, by clarifying the language when an unlicensed person is permitted to drive a vehicle.

Under the present statute, an owner or controller of a motor vehicle is prohibited from authorizing or knowingly permitting the use of a motor vehicle to an unlicensed driver. This bill eliminates the requirement of "knowingly" permitting an unauthorized person to drive a motor vehicle and makes the same provision for persons who own or control mopeds.

Your Committee has amended this bill to keep the existing language that no vehicle owner shall authorize or knowingly permit an unlicensed person to drive his vehicle on any highway in order to preserve the rights of a vehicle owner whose vehicle has been used without his knowledge by an unlicensed driver.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 337, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 337, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 768 (Majority) Transportation on H.B. No. 601

The purpose of this bill is to set minimum State standards for sun screening devices used, installed, or mounted on or adhering or affixed to the glazing material of any motor vehicle within the State and to set penalties for violations of these standards.

Over the past several years sun screening devices have become immensely popular throughout the state. Your Committee finds that sun screening devices used in conjunction with glazing materials are beneficial in the following ways: (1) They protect the driver's eyes from excessive glare, thus increasing driver safety; (2) They protect persons with cancer or cancer susceptible skin from the sun's harmful ultraviolet rays; (3) They decrease the usage of air conditioning, thus conserving energy; and (4) They increase the life of the upholstery of the motor vehicle and other light sensitive personal property kept in the vehicle.

Your Committee believes that the requirement that the front windshield of the motor vehicle must conform to the FMVSS 205 standard for light transmittance to ensure driver visibility of road and traffic conditions before him, and to help enable pedestrians, bicyclists, and drivers of other motor vehicles to make "eye contact" with the operator of a motor vehicle with sun screening devices. Your Committee further believes that this front windshield standard and the standards adopted by your Committee for the other windows of a motor vehicle will allow a police officer or other persons approaching a vehicle, even at night, to be able to observe the movements of the occupants of the vehicle.

The major issue confronted by your Committee with respect to H.B. No. 601, H.D. 1 is that of federal preemption. With respect to State regulation of "user", that is, owners and operators of motor vehicles, there appears to be no preemption issue and the State may regulate users of motor vehicles with sun screening devices. The preemption issue arises with respect to persons who apply sun screening devices, including tinting materials, commercially. Section 108(a)(2)(A) of the National Traffic and Motor Vehicle Safety Act 15 U.S.C. §1397(a)(2)(A), provides in part that "no manufacturer, distributor, dealer or motor vehicle repair business shall knowingly render inoperative, in whole or in part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable federal motor vehicle safety standard...".

Your Committee is concerned that the Federal Motor Vehicle Safety law is subject to interpretation, since the only substantial interpretation is that of "an opinion" of the National Highway Traffic Safety Administration that the term "dealer" includes persons who commercially apply sun screening devices to motor vehicle windows. Your Committee believes that to alleviate any discrepancies as to whether commercial applicators are covered by federal standards or not, the application of sun screening devices by these commercial applicators should be regulated by the State in order to assure the safety of its citizenry.

Your Committee requests that the Department of Transportation promulgate rules and regulations to utilize a visual comparative check for periodical motor vehicle inspections (PMVI). This will prevent safety check stations from purchasing expensive light measuring devices.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 601, 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.
Senator George did not concur.

SCRep. 769 Transportation on H.B. No. 890

The purpose of this bill is to add a new section to Chapter 291, Hawaii Revised Statutes, relating to child passenger restraints. This bill would require the usage of properly installed, federally approved child passenger restraint systems for children under two years of age when transporting the child in a motor vehicle operated on a public highway in this State. A child two years or older but less than four shall have the option of being restrained with a seat belt or shoulder harness instead of a child passenger restraint.

Throughout the United States the number one cause of injury among infants and children is motor vehicle accidents. Your Committee believes the utilization of child

restraint systems are essential in reducing further incidents of child injury or death to Hawaii's infants and children.

Under this bill exemptions exist for emergency, commercial, for hire, mass transit vehicles and Type 1 school buses (those that seat sixteen or more passengers). Rental cars, however, are not considered to be commercial vehicles and therefore not exempted. Further exemptions regarding the number of available seat belts and the number of persons in a vehicle are also addressed.

This bill contains provisions prohibiting the use of evidence of the nonuse of child passenger restraints to prove comparative negligence. The provision makes it clear that neither failure of a child under four to use nor failure to ensure that a child under four uses a child passenger restraint system or a seat belt or shoulder harness may be used to diminish the child's recovery in a tort action.

Violators will be subject to penalties provided in Section 291C-161(b) which provides penalties for first convictions of up to \$100. Your Committee recognizes there may be extenuating circumstances and therefore believes the decision of whether a fine will or will not be imposed should be decided by the court. The intent of this bill is not punitive in nature.

Section 2 of the bill provides for provisions of this Act to be severable.

Your Committee recognizes the potentially dangerous practice of an improper belt placement across a young child and has therefore amended the bill to require that persons transporting children under the age of three must provide the child with a federally approved child passenger restraint system.

Testimony presented by the department of transportation recommended the term "shoulder harness" be eliminated and the term "seat belt assembly" be inserted. The Code of Federal Regulations, Title 49, Part 571.209 defines seat belt assembly as "any strap, webbing, or similar device designed to secure a person in a motor vehicle in order to mitigate the results of any accident, including all necessary buckles and other fasteners, and all hardware designed for installing such seat belt assembly in a motor vehicle." The department believes the term seat belt assembly would be more accurate and less confusing.

Your Committee has also amended Section 3 of this bill to change the effective date of this Act from "upon its approval" to "July 1, 1983". This should provide ample time for drivers to acquire child passenger restraint systems before enactment.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 890, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 890, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 770 Transportation on H.B. No. 1317

The purpose of this bill is to reduce the allowable vehicle width on interstate highways and certain qualifying federal aid highways from nine feet to eight and one-half feet and eliminate the length limitations on motor vehicles and other power vehicles which are coupled, motor vehicles and motor vehicles with attached trailers or semitrailers, and truck-tractor semitrailer combinations on such highways.

These amendments would conform state law to the U.S. Department of Transportation Assistance Act of 1982, thus qualifying the State for federal highway funds. Your Committee finds that recent federal legislation has exempted the State from allowable vehicle width restrictions hence invalidating in part the purpose of this bill.

Your Committee has therefore amended the bill by deleting the proposed amendment limiting motor vehicles wider than eight and one-half feet from operating on certain highways in the State. The amendment excluding mirrors and other safety devices from the eight and one-half foot restriction was also deleted.

The bill also excludes interstate highways from the provision of subsection 291-39(c) relating to violation of maximum weight.

Your Committee has also amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1317, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1317, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 771 Government Operations and County Relations on H.B. No. 1243

The purpose of this bill is to allow the liquor commission to issue Class 5 Dispensers' licenses according to the category of establishment the licensee owns and operates. The categories of establishments include:

- (1) A standard bar;
- (2) A premise in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
- (3) A premise in which live or recorded music is played and in which facilities for dancing by the patrons are provided; or
- (4) A premise in which employees or entertainers are compensated to sit with patrons whether or not the employees or entertainers are consuming non-alcoholic beverages while in the company of such patrons.

Your Committee has amended the bill by adding a new section to allow "standard bar" establishments to provide music and allow dancing on a temporary basis under specific conditions and by providing cabaret licensees with the option of offering an orchestra of not less than three members, or professional entertainment for patrons. Presently, cabaret licensees are required to provide both an orchestra and professional entertainment. This bill would provide licensees with greater flexibility to tailor the kind of entertainment provided to their respective clientele.

Your Committee has also amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 1243, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1243, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 772 Education on H.B. No. 182

The purpose of this bill is to require the Department of Education to submit an annual report to the Legislature on the School Priority Fund established by Chapter 296D, Hawaii Revised Statutes.

Your Committee finds that current statutes do not ensure that the Legislature will regularly receive information as to the disposition of the funds and positions in the School Priority Fund. This bill will require an annual report be submitted to the Legislature on the School Priority Fund.

Your Committee has amended this bill by requiring school principals to consult with parents and students, as well as teachers, on the use of priority funds.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 182, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 182, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 773 Education on H.B. No. 722

The purpose of this bill is to require the Superintendent of Education to report annually to the Governor and the Legislature on the students who are scoring in

each of the lowest three stanines in basic skills, based on the statewide testing program, and on actions being taken by the Department of Education to improve these students achievement levels.

Statewide testing scores are currently given directly to the Board of Education and made available to the Governor and the Legislature upon request. The general public is made aware of the scores via the media.

This bill requires an annual report to be submitted to the Governor and the Legislature. The report must include the number and percentage of students in the public schools who are scoring in each of the three lowest stanines in basic skills and actions which are being taken by the Department of Education to improve the students scores. This report must also be made available to the general public.

Your Committee has amended the bill by requiring that the report include the progress of students in the lowest three stanines from year to year and an analysis of the effectiveness of actions implemented by the Department of Education to address the needs of these students. The bill has been further amended to delete the requirement for reporting according to ethnic group.

Your Committee has also amended the bill to delete references to gender and to make technical changes which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 722, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 722, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 774 Education on H.B. No. 752

The purpose of this bill is to require some form of restitution from pupils who are found responsible for school vandalism.

As received by your Committee, this bill repealed and redrafted Section 298-27, Hawaii Revised Statutes, relating to damage to public school property as a result of vandalism.

Upon consideration of this measure, your Committee has amended the bill to retain the present format of Section 298-27 with amendments to more effectively deal with the problem of school vandalism. As amended, the bill contains much of the features of the House draft. However, the amended bill deletes the provision in the House draft which authorized the principal of a school to direct a pupil to perform non-monetary restitution. Instead, if a pupil or his parents refuse to accept a principal's findings regarding responsibility for vandalism and the requirements for restitution, the principal is required to report the findings to the district superintendent for review and possible referral to the Attorney General for action.

Your Committee finds that the bill, as amended, provides the schools with a means to combat vandalism while protecting the rights of the parties involved.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 752, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 752, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Toguchi.

SCRep. 775 Education on H.B. No. 1434

The purpose of this bill is to encourage timely return of public library materials by assessing a nominal charge to a borrower if library materials are not returned by one day past the due date.

Presently, a person who wilfully and knowingly detains any library materials for seven days after the mailing date of a written notification, is subject to a nominal charge set by the State Board of Education. If the person detains the materials for thirty days after the written notification is sent, the person is subject to a charge commensurate with the replacement value of the book or library materials.

Your Committee finds that the present provisions for assessing charges are impractical because it is difficult to prove that a person "wilfully and knowingly" failed to return materials and the requirement for written notification causes administrative burdens on the libraries. This bill addresses the problem by deleting those requirements as conditions for assessing a charge for detaining library materials past the due date. In order to encourage prompt return of materials, the bill further amends the present statute to impose a charge if the materials are not returned one day after the due date.

The testimony of the Director of the Hawaii State Library System shows a substantial loss of potential revenues due to the lack of a practical fine system throughout the State public library system. The testimony of a librarian at McCully Library states that approximately thirty per cent of the annual acquisition budget is spent replacing unreturned items.

Your Committee finds that due to severe fiscal restraints and budget cutbacks throughout all State departments, a workable fine system must be implemented for items borrowed from the public libraries.

Your Committee has amended the bill by excluding children aged twelve and under from the fine policy; revoking library privileges for these children if library materials are not returned within thirty days of written notification; and adding a provision whereby parents of these children are informed of the number of days within which they must return the materials or be charged the cost of the non-returned items.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1434, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1434, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 776 Health on H.B. No. 1087

The purpose of this bill is to authorize the Department of Health to obtain company records when there is cause to suspect that products are adulterated or misbranded.

Currently the Department is authorized to inspect any premises where food, drugs, or other consumer commodities are made, sold or stored, but it may not demand the company records pertaining to such goods.

Testimony by the Department of Health indicates that access to such records will aid in the investigation of questionable practices and will help in determining the effectiveness of product recalls.

This bill authorizes the Department to obtain records relating to the manufacture, distribution or sale of food, drugs, devices, cosmetics, or consumer commodities which are believed to be adulterated or misbranded.

Your Committee has amended the bill by changing the penalty applicable for violation of the confidentiality of information obtained by the Department of Health in the course of an authorized investigation. The penalty has been changed from a fine of \$10,000 to a misdemeanor.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1087, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1087, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 777 Health on H.B. No. 497

The purpose of this bill is to require prescription drugs in tablet or capsule oral dosage form to bear a mark or imprint identifying the drug and the manufacturer or distributor of the drug.

Your Committee finds that clearly marked symbols or similar kinds of identification on prescription tablets will help emergency health care providers to quickly identify pharmaceutical substances that are potentially lethal to persons who accidentally or intentionally ingest them.

Your Committee has amended the bill by allowing the department to exempt particular drugs from the identification requirement if imprinting is unfeasible and by deleting the exemption for drugs purchased by consumers from out-of-state drug houses.

Your Committee has further amended the bill by providing that any drugs not meeting the identification requirements are deemed misbranded, thus making the enforcement and penalty provisions for misbranded drugs applicable to such drugs. The bill has also been amended to make nonsubstantive technical changes.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 497, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 497, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 778 Health on Gov. Msg. Nos. 232, 233, 234, 235, 236, 237, 238, 265, 266 and 267

Recommending that the Senate advise and consent to the nominations of the following:

CHARLES G. CLARK as Director of Health, for a term ending December 1, 1986;

SOLOMON P. MCCURDY, WILLIAM J. EGGERS, III, and EUGENE R. UEMURA to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1984, December 31, 1986, and December 31, 1983, respectively;

PATRICK R. CULLEN, JOHN J. VOLANTI, CULLEN T. HAYASHIDA and MABEL FUJIUCHI to the Statewide Health Coordinating Council, for terms ending December 31, 1986;

AMY F. HAMANE, CRAIG Y. SHIKUMA, M.D., and MILDRED MOSHER to the Hawaii County Subarea Health Planning Council, for terms ending December 31, 1986;

MARION LESLIE HANLON, M.D., TONY KRIEG, JERRY A. WALKER, JR., and CLARK H. NAKAMOTO to the Maui County Subarea Health Planning Council, for terms ending December 31, 1986;

GLENN M. LOVEJOY, VERONICA SANCHEZ and PETER M. KIM, M.D., to the Kauai County Subarea Health Planning Council, for terms ending December 31, 1986;

MARTHA IMOGENE PELLETIER to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending December 31, 1986;

ROGER B. BRAULT, M.D., RALPH M. BEDDOW, M.D., PATRICIA ANN ROBERTI and ROSALINA S. DOMONDON to the Board of Health, for terms ending December 31, 1985, December 31, 1986, December 31, 1986 and December 31, 1986, respectively;

ARVID TADAO YOUNGQUIST and NORA L. TEJERO, to the West Honolulu Subarea Health Planning Council, for terms ending December 31, 1986; and

MERL W. HAWTHORNE to the Central Oahu Subarea Health Planning Council, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 779 Judiciary on Gov. Msg. No. 245

Recommending that the Senate consent to the nomination of HERMAN T.F. LUM as

Chief Justice, Hawaii State Supreme Court, for a ten-year term, in accordance with Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee.

SCRep. 780 Judiciary on H.B. No. 1028

The purpose of this bill is to permit the Governor to freeze the mark-ups on certain commodities during disasters.

Your Committee finds that this bill will prevent sellers from taking advantage of disasters by raising profit margins on necessities.

Your Committee made the following amendments to the bill:

1. Decreased the maximum fine from \$10,000 to \$1,000 and the minimum fine from \$500 to \$50. Most necessary commodities, such as camping fuel, flashlights, batteries, etc., cost less than \$10 each. Your Committee finds that such penalties are cumulative and may be assessed for each violation; therefore, the reduced amounts, when applied on an individual violation basis, are more than adequate for purposes of deterrence.

2. Clarified that each item sold at a price which is prohibited by this section shall be a violation.

3. Clarified the definition of "mark-up" as the normal mark-up at the outlet seventy two hours before the disaster. Sellers would be allowed to terminate promotions and to return to usual mark-ups.

4. Technical nonsubstantive amendments were made to the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1028, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1028, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda and Machida.

SCRep. 781 Judiciary on H.B. No. 663

The purpose of this bill is to provide notice to victims of crimes against the person when the defendant is placed back into the community. This bill also exempts state employees from liability for failure to comply with the notice requirement, but subjects them to disciplinary action.

The victims of crime have been largely ignored as the "forgotten clients" of the criminal justice system. Not only must they endure pain, fear, and anxiety as the natural aftermath of the commission of a crime, but also suffer through the bewilderment, frustration, and impersonal nature of the criminal justice system itself. As a result, these citizens, in attempting to perform their moral and civil duty to the community, often regret having participated in bringing a criminal to justice.

Your Committee finds that action must be taken to protect victims and to encourage them to participate in the prosecution of crimes. The bill was amended in its entirety to grant victims a basic bill of rights to be provided by the police, prosecuting attorneys, courts, victim assistance programs, DSSH, and paroling authority. The bill of rights includes not only notification when the defendant is released from custody, but also provides for information as to the status of the criminal proceeding, protection of the victim or witness, available services and assistance, return of property, and various other matters.

Your Committee also amended the bill by deleting the blanket exemption to employees who fail to comply with notice requirements, as the circumstances of each case should be reviewed on a case by case basis by the appropriate agency or court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 663, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 663, H.D. 2, S.D. 1, and be placed on

the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 782 Judiciary on H.B. No. 11

The purpose of this bill is to increase the jurisdictional limits of the Small Claims Division of the District Court.

Your Committee finds that inflation necessitates an increase in the current jurisdictional amounts. These increases would serve to relieve some of the burden of the district courts and return the small claims cases to their proper forum.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 11, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 783 Judiciary on H.B. No. 710

The purpose of this bill is to amend section 516-33, Hawaii Revised Statutes, to preclude the value determined by the Hawaii Housing Authority (HHA) for the leased fee interest in a lot and any financial information on the lessee the Authority may obtain during the qualification procedures defined by this section, from being discoverable or admissible in a Chapter 516 eminent domain action. The bill also amends section 516-24, Hawaii Revised Statutes, by changing the date at which compensation is determined.

Currently, the amount set by HHA for the leased fee interest is computed from offers, appraisals, and other documents and opinions rendered during the preliminary negotiations. In conjunction with H.B. No. 708, H.D. 1, S.D. 2, your Committee concludes that this information should be precluded from the evidence in a Chapter 516 condemnation suit, to facilitate open and honest discussion between the lessors and lessees.

The proposed amendment to section 516-24, Hawaii Revised Statutes, would change the date compensation is determined from the date of designation of the applicable portion of the tract to the date of the summons of the complaint in eminent domain. This amendment would bring the assessment date of Chapter 516 condemnation actions into parity with the existing eminent domain statute under section 101-24, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 710, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 710, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 784 Judiciary on H.B. No. 69

The purpose of this bill is to enact the Uniform Determination of Death Act and repeal the existing statute governing the issue.

Testimony by the Department of Health indicated that the only significant change made by the bill is that it adds irreversible cessation of all the functions of the brain or brain stem, as an alternate definition of death. Your Committee declined to adopt the uniform act since most of its provisions are already a part of section 327C-1, Hawaii Revised Statutes. Your Committee amended this measure to add irreversible cessation of brain or brain stem function to section 327C-1.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 69, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 69, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 785 Judiciary on H.B. No. 351

The purpose of this bill is to codify the existing practice of permitting courts to grant a deferred acceptance of nolo contendere plea and to require that the plea of

nolo contendere be made prior to trial.

Presently, a deferred acceptance of nolo contendere plea is permitted by case law, which also permits such pleas after trial has begun. Therefore, a defendant may proceed with trial and during the course of the trial, may enter a deferred acceptance of nolo contendere plea if he feels he may be convicted. By requiring that the plea be entered prior to trial, the defendant must either recognize and admit his culpability or accept the risks of trial. Your Committee finds that the requirement of entering the plea prior to trial is consistent with the intent and purpose of deferred acceptance of nolo contendere pleas.

Your Committee made technical, nonsubstantive amendments to this measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 351, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 351, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 786 Judiciary on H.B. No. 390

The purpose of this bill is to require that in actions to quiet title to real property, service by publication be made in an English language newspaper having a general circulation in the circuit where the action is bought; and if the action is bought in circuit other than the first circuit, such notice be published in a newspaper having general circulation in the State.

Presently, notice is only required to be published in newspapers circulated in the circuit in which the action has been instituted. Your Committee received testimony that in many quiet title actions, the property claimed is in the neighbor islands but most of the heirs to the lands reside on Oahu. The effect of the proposed change is to afford fair and effective notification in quiet title actions.

Your Committee amended the bill to require that a person claiming land by adverse possession must show that he acted in good faith under claim of right or color of title.

Large amounts of land in Hawaii have been acquired by parties who knew that they did not have any interest in the property. In many other states, good faith is a necessary element in actions for title by adverse possession.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 390, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 390, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 787 Judiciary on H.B. No. 1342

The purpose of this bill is to require that persons who have been acquitted on grounds of physical or mental defect and who are conditionally released, continue to receive treatment and care until discharged from conditional release.

The measure provides that if the individual fails to continue treatment or care, the individual may be hospitalized for up to 72 hours without a hearing. The 72 hour limitation may be exceeded if a hearing is held.

The measure also extends the time following the order granting conditional release in which conditional release can be revoked. Presently, revocation of conditional release cannot occur later than five years from the date of the granting of conditional release.

Your Committee finds that the bill will enhance the conditional release program and further, provide for the needs of the community and the individual.

Your Committee amended the bill by deleting danger to property as a ground for commitment. In *Suzuki v. Yuen*, 617 F.2d 173 (1980), the Ninth Circuit Court of Appeals struck down the portion of the civil commitment statutes, which permitted commitment on the basis of danger to property, as unconstitutionally broad.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1342, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1342, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 788 Judiciary on H.B. No. 453

The purpose of this bill is to clarify the elements of the crime of robbery.

Presently, the statutes pertaining to first and second degree robbery require that the actor use force against the owner or any person present with the intent to overcome the owner's physical resistance or physical power of resistance.

Your Committee finds that frequently, the owner is not present and that the actor uses force against some other person present to steal the property of the owner. Under the existing statute, the actor cannot be prosecuted for robbery.

The Intermediate Court of Appeals in State v. Tuua, 649 P.2d 1180 (1982), discussed the offense of robbery. Although the primary issue of the case involved the sufficiency of an indictment for robbery, the Court's opinion in interpreting the present law was that in order to sustain a charge of robbery, the State must prove that the actor intended to overcome the owner's resistance or power of resistance. Hence, if the owner is absent, the crime of robbery cannot be committed.

This measure provides that robbery is committed when force, with the requisite intent, is applied against any person present.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 453, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 789 Judiciary on H.B. No. 1266

The purpose of this bill is to 1) clarify Family Court's power to issue restraining orders to preserve the status of marital property, 2) grant the court the power to issue such an order, without a hearing, on a supporting affidavit or a statement made under penalty of perjury, 3) specifically authorize the court to issue such orders against nonparties, and 4) empower the court to appoint masters to make preliminary findings and report to the court.

Presently, the statutory language relating to the issuance of restraining orders is inadequate. The bill broadens the language to encompass current court practice.

Your Committee made the following amendments to the bill:

1. Provided that a restraining order can be granted ex parte, without notice of hearing to the other party, rather than without a hearing. There is no authority in the existing statutes or in the court rules for the court to issue restraining orders without a hearing to determine the legitimacy or urgency of the claims for extraordinary relief.

2. Deleted the provision in the bill which provided that an application by either party must be supported by a statement made under penalty of perjury. A notarized affidavit sets a higher standard of trustworthiness, which the Committee finds is important in determining property disagreements between parties.

3. Deleted the section stating that the court can issue an order against a person who is not a party. The court already has such power.

4. Created a new section for the appointment of masters, rather than include the material in the section related to restraining orders.

5. Made technical nonsubstantive changes to the bill to clarify its intent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1266, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1266, H.D. 1, S.D. 1, and be placed on

the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 790 Judiciary on H.B. No. 322

The purpose of this bill is to: 1) extend the time for a child or a child's personal representative to file a paternity action to three years beyond the child's age of majority; 2) allow a person who, or agency which, provided financial support to the child to bring an action; 3) clarify that a summons may issue against the alleged or presumed father or the mother.

The present law requires that an action to establish paternity be brought within three years of the child's birth. If the child's mother refuses, neglects, or fails to file within the three-year period, the child is forever barred from securing support. This penalizes the child through no fault of the child.

The statute of limitations was intended to protect the alleged father from having to defend an accusation of paternity after too long a period of time has elapsed. However, with the use of modern scientific tests of red and white blood cells, the problem of old or stale evidence is greatly reduced.

Your Committee heard testimony in support of the bill from the Department of Social Services and Housing, the Department of Corporation Counsel, County of Maui, and the Department of Corporation Counsel, City and County of Honolulu. The Family Court supported the provision of the bill allowing a person who, or agency which, provided financial support to the child to bring an action.

Your Committee amended the bill to specify that if the Department of Social Services and Housing is providing or has provided public assistance to the child, pursuant to chapter 346, Hawaii Revised Statutes, it may also bring a paternity action.

Your Committee further amended the bill to add that the court could summon both the alleged or natural father and the mother. As the bill originally read, the court was limited to summoning either the father or mother, not both. Additionally, your Committee amended the bill to provide that if the mother or the alleged or presumed father evaded service of process or failed to appear after being summoned, the court may order the appropriate sanctions. As the bill originally read, the court could only take action against the alleged or presumed father if he evaded service or failed to appear after being summoned, even though the mother so summoned did not face those same sanctions.

Your Committee also made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 322, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 322, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 791 Judiciary on H.B. No. 1037

The purpose of this bill is to provide the Family Court specific statutory authority to issue restraining orders, in matrimonial actions, to prevent the abuse or harassment of a party. This bill also specifically requires law enforcement officers to enforce these restraining orders and it clarifies that wilful disobedience of such an order is a misdemeanor.

Presently, there is no specific statutory authority for the Family Court to issue restraining orders against abuse and harassment. The Family Court has been doing so under its general equity powers.

Also, the police have been hesitant to enforce the restraining orders without a specific statutory mandate. This bill dismisses any doubts in this regard, and allows the police to order the restrained party to leave for a three-hour cooling off period or, where they have reasonable grounds, to arrest the restrained party.

Testimony submitted by the Legal Aid Society of Hawaii and one of their clients, the Judiciary, the Family Law Committee of the Hawaii State Bar Association, and

the Hawaii Women Lawyers, all supported this bill. Your Committee finds that this bill will provide an effective means to decrease the incidence of spouse abuse in the State.

Your Committee made technical, nonsubstantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1037, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 792 Judiciary on H.B. No. 783

The purpose of this bill is to permit retired intermediate appellate court judges or supreme court justices to temporarily serve as an intermediate appellate court judge.

Presently, the law permits a retired supreme court justice to temporarily serve on the supreme court. This bill would authorize the same practice in the intermediate appellate court.

Your Committee finds that such a practice is desirable in times of increased workload and temporary judicial absences.

For the same reasons cited above, your Committee amended the bill to authorize the same practice in the circuit court. The amendment made by your Committee provides that a retired circuit court judge may temporarily serve in the circuit court.

Further amendments were made by providing for compensation of the temporary judges at rates which are equivalent to those of other judges in the same court.

Your Committee made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 783, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 783, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 793 Judiciary on H.B. No. 1294

The purpose of this bill is to amend section 709-906, Hawaii Revised Statutes, 1) to require the county prosecuting attorney to assist the victim in petitioning the Family Court for a penal summons or arrest warrant, or to file a criminal complaint for the victim, 2) to eliminate the requirement of substantial harm to a spouse before a police officer can take appropriate action, 3) to clarify that a police officer may order the abusive spouse to leave the premises for a cooling off period if the officer believes further physical abuse or harm may occur, 4) to specify that the officer who arrests a person for spouse abuse is immune from civil or criminal liability if the officer acted in good faith, 5) to clarify that prosecution of spouse abuse does not bar prosecution for any other similar or related offense, and 6) to clarify the language of the statute. It also repeals section 709-907, the provisions of which have been modified and incorporated into section 709-906.

Your Committee finds that the provisions of the bill will greatly assist in dealing with spouse abuse.

Two of the bill's provisions are intended to encourage more immediate action by the police: removing the requirement that substantial physical harm to a spouse occur before the police may act and by statutorily granting immunity for good faith police action.

Your Committee made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1294, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1294, H.D. 1, S.D. 1, and be placed on

the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 794 Judiciary on H.B. No. 866

The purpose of this bill is to add a new section to the Hawaii Revised Statutes regarding the unauthorized removal of shopping devices from business establishments.

Specifically, the bill allows an establishment to bring suit in the Small Claims Division of the District Court for unauthorized removal of a shopping device, if it posts a conspicuous notice of the prohibition against removal.

The Hawaii Food Industry Association estimated that establishments incurred a loss of \$225,000 in 1982 due to stolen shopping carts. Your Committee finds that the ultimate victim of shopping cart theft is the consumer and that the bill will help curb growing losses.

Your Committee amended the bill to provide that a person who removes a shopping device in violation of the provisions of the bill may be liable to a civil judgment to the establishments or a criminal fine, but not both.

It further amended the bill to authorize that the establishment can only recover the replacement value of the shopping device. The bill originally provided that the establishment could recover no less than \$100 and no greater than \$1,000, which may be too harsh a penalty since the average cost of a shopping cart, the most expensive shopping device, is about \$100.

Your Committee also made technical, nonsubstantive amendments to the bill to clarify its intent and to correct punctuation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 866, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 866, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 795 Judiciary on H.B. No. 494

The purpose of this bill is to include poisoning of animals within the crime of cruelty to animals, and to specify that acts of violence against zoo animals shall be punishable as a form for cruelty to animals. This measure also substitutes "animal" for "living creature".

Your Committee finds that poisoning animals and acts of violence against zoo animals are already included within the definition of cruelty to animals. Therefore the bill was amended to delete their specific inclusion in section 709- 1109, Hawaii Revised Statutes.

However, your Committee also amended the bill to make acts of violence cruelty against zoo animals a class C felony, as such acts are committed not only with the wanton disregard of the life and well-being of the animal, but also with callous indifference to the public's enjoyment and education derived from such animals.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 494, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 494, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 796 Judiciary on H.B. No. 1417

The purpose of this bill is to provide children prompt and ample protection from abuse and other harm, to provide an opportunity for timely reconciliation of children with their families where practicable, and to provide timely and permanent planning for children.

Specifically, the bill: (1) organizes in one chapter the relevant procedures and

actions required for family protection service by the Family Court and other appropriate agencies, (2) clearly spells out terms relevant to the implementation of family protective services, and (3) establishes a system of service plans that clearly set forth actions required on the part of the family.

Your Committee finds that enactment of the Child Protective Act is imperative to safeguard children, and wholeheartedly supports its expeditious implementation.

Your Committee made the following amendments to the bill:

1. Lowered the age ceiling under which Family Court can retain jurisdiction over the child from twenty to nineteen.
2. Clarified that although court orders must be reduced to writing as soon as practicable, verbal orders are effective as of the date of the hearing. The bill originally could have been interpreted as eliminating the requirement for written orders.
3. Allowed the court flexibility in setting review hearings by providing that a review hearing need not be held if good cause is shown.
4. Deleted the amendments to sections 571-2 and 571-31.1, Hawaii Revised Statutes, as unnecessary.
5. Redefined "harm or threatened harm" in section 350, Hawaii Revised Statutes, by referring to the definition in the bill.
6. Made several technical nonsubstantive amendments.

Your Committee intends that the bill be construed in a manner that will not abridge the beliefs and practices of religious organizations.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1417, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1417, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Abercrombie and Toguchi.

SCRep. 797 Judiciary on H.B. No. 1118

The purpose of this bill is to amend the Hawaii Administrative Procedure Act (HAPA), to provide that a notice of public hearing shall include the subject of a proposed rule rather than the substance.

One of the stated purposes of the HAPA is to provide for public participation in the rule-making process, Aguiar v. Hawaii Housing Authority, 55 Haw. 478 (1974). To achieve this end, the Hawaii Supreme Court in Costa v. Sunn, 64 Haw. 389, (1982), decided that a statement of the substance of a proposed rule must include an intelligible abstract or synopsis of its material and substantive elements. The Department of Social Services and Housing (DSSH) expressed concern in interpreting the decision. They had difficulties in determining which substantive elements of the proposed rule should be included in the notice. However, your Committee reviewed the Costa decision and finds that the following explanation is provided: "A statement of the substance of a proposed rule is a statement of sufficient information to enable interested persons to criticize the proposals or formulate possible alternatives".

Your Committee declined to change the requirement that the notice include only the subject of the proposed rule rather than the substance. Such a change would seriously and improperly limit the information interested persons need to enable them to comment on rules. Your Committee, instead, defined "a statement of the substance of the proposed rule", to clarify that all that is needed is a statement of the subject of the proposed rule and an intelligible abstract or synopsis of its material and substantial elements, quoting directly from the Costa decision.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1118, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H.B. No. 1118, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 798 Judiciary on H.B. No. 452

The purpose of this bill is to clarify the definition of "negligent" and "reckless" behavior as provided in section 702-206, Hawaii Revised Statutes. This bill makes grammatical corrections and does not make substantive changes to the concepts of negligence and recklessness.

Your Committee made a technical nonsubstantive amendment to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 452, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 452, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 799 Judiciary on H.B. No. 402

The purpose of this bill is to authorize the Department of Social Services and Housing, with the concurrence of the police, to disclose the name, address, prior record, and photograph of an escapee from the Hawaii Youth Correctional Facility, if the person was committed for a felony involving the use of force or violence or the threat of force or violence.

The bill would permit the escapee's photograph to be published in the newspapers or shown on television. Your Committee finds that such public disclosure will act as a warning to the public that the person poses a threat to the community and may lead to earlier apprehension.

Your Committee amended the bill to place it under the provisions for the Hawaii Youth Correctional Facility, in Chapter 352, Hawaii Revised Statutes, rather than under the provisions of records for the Family Court.

Your Committee also made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 402, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 402, H.D.1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 800 Judiciary on H.B. No. 15

The purpose of this bill is to permit the Family Court or an intake agency to require parents of a juvenile offender to make restitution to the victim of the juvenile's crime.

Presently, the Family Court and the intake agency may require that the juvenile make restitution or participate in restitution projects, respectively, but have no authority to order payment of restitution by the parents or guardian of the child.

Your Committee received statements of concern as to the lack of sanctions for failure to complete such restitution. Your Committee finds that in juvenile actions, the parents or other responsible adults are summoned to court along with the juveniles. As such, the Family Court may exercise its contempt powers to sanction any disobedience of its orders.

Your Committee amended the measure to provide for restitution by services as well as monetary payments. Further, the bill was amended to specify that legal guardians as well as parents may be required to make restitution.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 15, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 15, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 801 Judiciary on H.B. No. 118

The purpose of this bill is to correct technical errors appearing in various portions of the Hawaii Revised Statutes and the Session Laws of Hawaii which have resulted in inconsistencies, redundancies, unnecessary repetition, and lack of clarity.

This bill, as received by your Committee, proposes amendment or repeal of fifteen separate sections of the Hawaii Revised Statutes and three separate sections of No. 118, and the changes made in H.B. No. 118, H.D. 1, which your Committee concurs with and incorporates by reference with the exception of section 171-60(a), Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 118, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 118, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 802 Judiciary on H.B. No. 1363

The purpose of this bill is to permit the service of district court writs, summons, and orders in the same manner and to the same extent as documents of the circuit courts. This bill also clarifies the general powers of district court.

Presently, the district courts are empowered to have such documents served within the judicial circuit in which they are located. This measure would remove the restriction.

The district courts are more frequently encountering disputes between residents of different judicial circuits and jurisdictions. Your Committee finds that there exists no reason to continue limiting the ability of the district courts to effect service of documents.

Your Committee made the following amendments to the measure:

1. Clarified under which conditions service of documents may be effected outside the State. Your Committee included a cross-reference to provisions of Hawaii Revised Statutes pertaining to pleadings and procedures to make it clear that the service powers of the district courts extend beyond the State.

2. Made technical nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1363, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1363, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 803 Judiciary on H.B. No. 1557

The purpose of this bill is to allow the Department of Health to place defendants, charged with non-violent crimes and who are acquitted on grounds of mental health or physical defect, in the least restrictive environment, taking into account the defendant's treatment needs and the need to prevent harm to the person confined and to others. The bill also deletes from the criteria of commitment, the risk of danger to the property of others.

Presently, section 704-411, Hawaii Revised Statutes, requires the Court to commit to the custody of the department, a person acquitted on the grounds of physical or mental disease, disorder, or defect, if person presents a risk of danger to himself, others, or the property of others.

Your Committee finds that the Ninth Circuit Court of Appeals in Suzuki v. Yuen, 617 F.2d 173 (1980), struck down the criteria of danger to property, in the civil commitment statutes, as unconstitutionally broad. The Court was of the opinion that the individual's right to liberty outweighed the State's interest in protecting property. By dicta, the Court implied that at a certain point, the State may deny

an individual's liberty to protect property; however, the Court did not set forth criteria for determining such a threshold.

Your Committee made a technical amendment to clarify the intent of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1557, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1557, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 804 Judiciary on H.B. No. 1562

The purpose of this bill is to provide that a defendant who is unfit to proceed with trial, and who is charged with one or more nonviolent crimes, shall be confined in the least restrictive environment.

The bill further provides that within 14 days of the order of commitment, a determination shall be made whether the defendant will be able, through treatment or medication, to proceed with trial. If the defendant is charged with one or more nonviolent crimes, he shall be released or civilly committed if he is not able to proceed after one year. If the defendant is charged with one or more violent crimes, he shall be released or civilly committed if he is not able to proceed after three years.

Your Committee finds the provisions of this bill will enhance treatment of disturbed defendants and will add certainty to the duration of commitment pending fitness of the defendant to proceed with trial.

Your Committee amended the bill to provide that in cases of violent crime, the defendant may be released only after civil commitment has been deemed inappropriate and after a hearing held by the Department of Health. This amendment stems from your Committee's concern for the public as well as the defendant.

Further amendment was made by deleting danger to property as a ground for continued commitment. This amendment conforms this section with the opinion of the Ninth Circuit Court of Appeals in *Suzuki v. Yuen*, 617 F.2d 173 (1980), where the court struck down such criteria as unconstitutionally broad.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1562, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1562, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 805 Judiciary on H.B. No. 1153

The purpose of this bill is to grant immunity from civil liability to persons who serve on peer review committees of specialty societies.

Presently, members of peer review committees of professional societies enjoy immunity from civil liability for while carrying out their duties. The peer review groups of specialty societies perform the same necessary function as those of professional societies and therefore they should be granted the same protection.

Your Committee amended the bill by deleting the requirement that professional or specialty societies covered by the bill be comprised of the majority of members with the particular profession or specialty. Your Committee finds that such a restriction would limit competition and the formation of monopolies.

The bill was also amended to retain the present limitation on the membership of hospital committees. Your Committee finds that hospital committees should be limited to medical or administrative staff members.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1153, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1153, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Cayetano, Holt and Toguchi.

SCRep. 806 Judiciary on H.B. No. 901

This bill is a housekeeping measure to facilitate the smoother planning and execution of the election process.

This measure amends the following sections of the Hawaii Revised Statutes in the following manner:

- §11-23 Voter register. The amendment deletes reference to a "mentally ill person under the provisions of chapter 334", as such persons are now termed "incapacitated persons" and are governed by chapter 560.
- §11-41 Boards of registration. The amendment places the four boards of registration under the Lieutenant Governor's office for administrative purposes. Presently, the statute fails to place such boards under any department.
- §11-61 Definition of "political party". The amendment conforms the qualification requirements for a political party to the recent staggering of Senate terms.
- §11-62 Formation of new parties. The amendment provides that the signers of the new party petition be currently registered voters; that the percent of signatures required be set by the number of registered voters as of the last preceding general election; and that the new party submit its rules with the petition.
- §11-63 Filing of party rules. The amendment deletes the requirement that a new party submit its rules at least 150 days prior to the primary election. It makes compatible this section with the preceding section which requires submittal of rules with the petition.
- §11-64 Party officers. The amendment requires that the parties submit the names of their officers no later than 90 days prior to the next primary. Presently, the statute permits 120 days.
- §11-77 Appointment of poll watchers. The amendment states to whom the parties must submit their lists of poll watchers. This was previously omitted from the law.
- §11-92 Precincts, polling places, and central polling areas. This section is being repealed; the new sections to be enacted break down the material in §11-92 into more comprehensible units.
 - §11-92.1 Establishment of new precincts. The amendment requires the chief election officer to issue a proclamation describing any new precincts and prevents the change of boundaries within the ninety days prior to an election.
 - §11-92.2 Multiple polling places. The amendment permits the chief election officer to establish multiple polling sites for contiguous precincts, subject to such sites being established before the ninetieth day prior to an election.
 - §11-92.3 Consolidated precincts. The amendment permits the establishment of one polling place for several precincts within the same district in the event of a natural disaster or a special, special primary, or special general election. Corresponding notices to the public are required.
- §11-97 Election records. The amendment prohibits the opening of any sealed election ballots or material, prior to the expiration of the contest period, unless a court order has been obtained.
- §11-112 Contents of the ballot. The amendment clarifies when a candidate's party affiliation or nonpartisanship shall be listed on the ballot, requires that the ballot must state in multimember races how many candidates the voter may vote for, and specifically permits the inclusion of ballot questions on the ballot.
- §11-113 Presidential ballots. The amendment requires that persons wanting to have their names placed on the general election presidential ballot

submit notarized statements that they intend to be a candidate for president or vice president on the general election ballot in the State of Hawaii. Additionally, the amendment provides that the requisite percentage of signatures on a petition to be placed on the presidential ballot be calculated upon the number of votes cast in the last presidential (as opposed to general) election.

- §11-117 Withdrawal of candidates. This amendment specifies to whom the notice of withdrawal must be given and extends the time (from 10 days to 20 days prior to the election) in which such notice must be received.
- §11-118 Vacancies and the insertion of another name on the ballot. This amendment moves up the date by which a vacancy could be filled by a party, to allow sufficient time for the printing of the ballots.
- §11-134 Ballot boxes. The amendment permits the opening of the ballot boxes at the counting centers to begin the ballot tabulation before the closing of the polls. The amendment conforms the law to the procedures used and allows for the opening of ballot boxes at the polling places when provided by rule.
- §11-135 Early collection of ballots. The amendment conforms the law to the current practice whereby voted ballots in electronic ballot system elections are transported to the counting centers during the day as well as after the polls close.
- §12-6 Nomination papers. The amendment provides that the requisite percentage of signatures on an indigents' nomination papers be calculated upon the number of votes cast in the last general election, as opposed to the present practice of using the number of registered voters.
- §12-41 Result of an election. The amendment prevents the current unnecessary campaign expenditure by a county candidate running for office during the general election when there are no candidates of other parties or nonpartisans running against that candidate.
- §15-9 Return and receipt of absentee ballots. The amendment permits the return of an absentee ballot to any polling place within the county where the voter is registered rather than restricting the voter to returning the absentee ballot only to the voter's regular polling place.

Your Committee amended the bill by reinstating the amendment to section 12-3 to require all party candidates to obtain a notarized affidavit from their respective parties, certifying the candidate's membership in such parties. Such a requirement would prevent deception of voters.

Additionally, your Committee made nonsubstantive technical amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 901, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 901, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Holt and Toguchi.

SCRep. 807 Judiciary on H.B. No. 34

The purpose of this bill is to amend section 346-10, Hawaii Revised Statutes, to 1) allow the disclosure of information by the Department of Social Services and Housing (DSSH) for investigations, prosecutions, or criminal proceedings involving the licensing or operation of adult boarding homes or day care centers, 2) permit the disclosure of information relating to the identities and addresses of foster, adoptive, and foster care facility parents with the consent of these persons, 3) authorize the deletion or withholding of information relating to the identities and addresses of foster, adoptive, and foster care facility parents, as is in the best interest of the child or parents, and 4) require that all reports and records on adult abuse or neglect be kept confidential. It also amends section 346-1, Hawaii Revised Statutes, to add a definition of social services.

Your Committee finds that this measure would clarify the circumstances under which DSSH may release information.

Your Committee made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 34, H.D. 1, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 34, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 808 Judiciary on H.B. No. 10

The purpose of this bill is to increase the general jurisdictional limit of the district court from \$5,000 to \$10,000, and the jurisdictional limit in which the district court shall have exclusive jurisdiction from \$1,000 to \$5,000.

Your Committee finds that the increase in the jurisdictional limits will serve to decrease the caseload in the circuit courts and will provide a less costly and faster means for parties to litigate disputes.

Your Committee made nonsubstantive technical amendments to this measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 10, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 10, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 809 Judiciary on H.B. No. 1126

The purpose of this bill is to amend the qualifications for the transportation assistance program, established within the Department of Social Services and Housing (DSSH).

Your Committee finds that the present law is adequate to meet the intent of the program.

Your Committee has amended the bill to address the Legislature's concerns regarding persons who have been committed to the custody of the DSSH.

The bill has been amended to provide for:

- (1) The establishment of a Community Release Branch under the Corrections Division of the DSSH;
- (2) The consolidation of programs for furloughs, conditional release, community release and probation under the direction of the Community Release Branch;
- (3) The transfer of probation from the Judiciary to the Community Release Branch;
- (4) The codification of the community release program which is presently in existence; and
- (5) The repeal of the parole program and replacement by the community release program.

Your Committee finds that the present structure of programs for alternatives to incarceration of convicted persons are scattered throughout several agencies. The present situation does not lend itself to a systematic evaluation of persons participating in these types of programs. Further, counselors in the various programs have caseloads varying from 40 to 140 per social worker. This bill, as amended, will allow the State to consolidate all social workers presently working in the various programs, thereby promoting effectiveness and efficiency. Programs for alternatives to incarceration have the same objective: to allow offenders to either remain or participate in community activities without jeopardizing the safety of the community. Additionally, persons allowed to participate in these programs present no risk of danger to society and have proven that they are capable of living an independent life with supervision, without the need for incarceration. Consolidation of these programs will ensure that these standards are followed with assessments

performed by a single agency following the same guidelines for all persons partially or fully released into the community.

Your Committee further finds that the present parole system essentially performs the same services and objectives of other correctional release programs. However, the parole program works independently from any other correctional program and provides no incentive for an offender to rehabilitate and to obtain gainful employment skills while incarcerated. The objectives for sentencing offenders to incarceration are to deter people from breaking laws and to prepare them for reintegration into the community as productive citizens. If the State does not provide for the latter objective, then society will continue to suffer the effects of high rates of recidivism. This not only costs the State in terms of property and lives lost due to crime, but it also financially burdens the State to operate correctional facilities to house the offenders.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1126, H.D. 1, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1126, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Cayetano, Abercrombie and Toguchi.

SCRep. 810 Judiciary on H.B. No. 708

The purpose of this bill is to amend chapter 516, Hawaii Revised Statutes, by 1) amending section 516-51 to preclude any party to a condemnation trial from introducing as evidence, any offers, appraisals, other documents, or any expert opinion used in connection with preliminary negotiations, and 2) adding a new section to the Land Reform Act which clarifies the alignment of the parties in eminent domain actions.

Your Committee finds that the first change will encourage open and honest discussion during preliminary negotiations by assuring lessors and lessees that information disclosed during this time cannot be used against them in trial.

Your Committee further finds that the second change will clarify the alignment of parties in eminent domain trials by requiring the Hawaii Housing Authority to be named as plaintiff, and the lessees along with all other necessary parties, to be named as defendants.

Your Committee made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 708, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 708, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 811 Judiciary on H.B. No. 1496

The purpose of this bill is to require that the Intake Service Center (ISC) notify the appropriate county prosecutor when it recommends to the court that a person, accused of a class A felony which involved the use of force or violence, be conditionally released or that bail be lowered.

Notification would allow the prosecutor to be present and express any concerns regarding the ISC's recommendation of conditional release or bail reduction.

Your Committee amended the bill to correct spelling and technical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1496, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1496, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 812 Judiciary on H.B. No. 467

The purpose of this bill is to specify that a child victim or witness shall have the right to have an attorney, parent, or other adult present in all Family Court

proceedings, and that the Court shall inform the parent, guardian, or legal custodian of their right to remain silent.

Testimony from the Family Court supported the intent of the bill as a notable recognition of the need to protect a juvenile witness' rights. Your Committee finds that allowing the child to have a familiar or trusted adult present would ease the child's confusion and fear of the court proceedings, and better enable the child to testify.

Your Committee amended the bill to clarify that the child, as well as the child's parent, guardian, or legal custodian shall be informed of the right to counsel and the right to remain silent.

Your Committee also made technical nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 467, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 467, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 813 Judiciary on H.B. No. 800

The purpose of this bill is to provide that upon entry of a final divorce decree, in which the division of property has been deferred, the property rights of the parties will be governed by the provisions of the Uniform Probate Code, chapter 560, as well as the provisions of the Descent of Property, chapter 533, and other relevant provisions. The bill also changes the time limit to resolve the deferred issue of property division from one year to two years, after which time the divorced spouse loses entitlement to dower, curtesy, or any share in the other's property.

Spousal rights in property are established by the Uniform Probate Code, enacted in 1976. This measure would harmonize chapter 580 with the Uniform Probate Code.

Your Committee declined to extend the time period to determine the reserved issue of property division from one year to two years because it finds that parties to a divorce should be prompted to resolve this issue as speedily as possible. Extending the time would only cause the parties to delay or protract litigation. To encourage the expeditious determination of property division, your Committee amended the bill to change the time period to six months.

Your Committee also made technical, nonsubstantive amendments to the bill.

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, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 814 Economic Development on H.B. No. 253

The purpose of this bill is to amend section 171-60(a) Hawaii Revised Statutes, by reinstating a portion of this subsection deleted inadvertently by Act 199, Session Laws of 1981. The intent of Act 199 was to eliminate the twenty-four hour period the Legislature must wait before acting on a concurrent resolution approving a development project. However, the act also eliminated the standards and procedures to be followed by the board of land and natural resources in the disposition of public lands.

Your Committee has previously heard an identical measure, S.B. No. 137, and received testimony from the department of land and natural resources in support of this bill.

Your Committee finds that this bill will provide necessary guidelines for the department of land and natural resources in leasing public lands and entering into development contracts with private developers.

Your Committee has amended the bill be reinstating the mandatory period between

the distribution of the concurrent resolution and its floor adoption, and increasing the time period to forty-eight hours to allow legislators time to familiarize themselves with the resolution's content.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 253, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 253, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 815 Economic Development on H.B. No. 256

The purpose of this bill is to reduce the costs of governmental projects by authorizing the board of land and natural resources to charge public utilities a nominal sum for easements required for these projects on State lands.

Presently, the granting of an easement to a public utility on State land is based on an independent appraisal of the easement's fair market value. Not only does the utility company pass on the cost of the easement at the fair market value to the State, it also passes on the cost of conducting the appraisal. The time it takes to complete the appraisal and process the paperwork necessary in the granting of the easement entails additional costs to the utility company and, ultimately, to the State, which is the sole customer of the utility service.

Your Committee finds that this bill will reduce the cost of government projects. Instead of charging a utility company a fee to render services based on an easement's fair market value, the State can charge a nominal fee. This will eliminate the need to hire an appraiser and thereby reduce the time involved in processing applications for easements. The utility company will then not incur costs for obtaining easements to pass on to the State.

Your Committee has heard an identical measure, S.B. No. 140, and received testimony from the department of land and natural resources and the Hawaiian Electric Company in support of this bill.

Style and non-substantive amendments have been made.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 256, H.D. 1, as amended herein, and recommends that it pass Second Reading in the amended form hereto attached as H.B. No. 256, H.D. 1, S.D. 1, and placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 816 Economic Development on H.B. No. 257

The purpose of this bill is to prohibit persons who have not satisfied the terms and conditions of a purchase, lease, license, permit, or easement covering public lands, during the past five years from being granted the use or acquisition of additional public lands.

Your Committee has previously heard an identical measure, S.B. No. 141, and received testimony from the department of land and natural resources in support of this bill.

Your Committee believes this bill will discourage willful and deliberate forfeiture on agreements covering public lands. Presently, a person who forfeits an agreement due to nonperformance may become immediately eligible for any new public land disposition upon fulfilling their financial obligations.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 257 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 817 Economic Development on H.B. No. 272

The purpose of this bill is to update the present language of section 26-18, Hawaii Revised Statutes, which prescribes functions of the Department of Planning and Economic Development.

The existing law does not cover the scope of work assigned to the Department, and refers to agricultural product promotion, a function which has been transferred to the Department of Agriculture. It fails to include functions of statewide planning, energy development and management, planning for the use of ocean resources, and international commerce.

H.B. No. 272, H.D. 1, would also update the manner in which appointments are made to the nine-member Board of Planning and Economic Development, an advisory body. The present law requires that one member be appointed from each senatorial district and three at-large.

Your Committee has previously heard an identical measure, S.B. No. 156, and received testimony from the Department of Planning and Economic Development. Your Committee has also obtained additional information from the Department bearing upon the housekeeping nature of this bill.

Your Committee was informed that the Department is concerned that the bill in its present form does not update statutory language relating to agencies assigned to it for administrative purposes. The present law mentions only the Land Use Commission, but several other boards and commissions are also assigned to the Department for administrative purposes. The Department is also concerned that the present statute delineating the boundaries of the Aloha Tower complex may unnecessarily restrict the development of the Aloha Tower site.

Your Committee has amended the bill in the following manner.

1. A new Section 1 has been added to clearly state the intent and purpose of this housekeeping measure, that is, to make amendments to certain statutes affecting the Department of Planning and Economic Development and agencies assigned to it for administrative purposes.

2. The new Section 2 of the bill would amend section 26-18, Hawaii Revised Statutes.

- a. The third paragraph of section 26-18, which provides for an advisory commission known as the Board of Planning and Economic Development, has been deleted. Your Committee has found that members of this board have been used to review and make recommendations on loan applications but the board does not have any other continuing function. Your Committee does not find that a board is needed for this purpose; moreover, the Director of Planning and Economic Development is authorized by section 201-7, Hawaii Revised Statutes, to appoint advisory committees whenever needed.

- b. The fifth paragraph of section 26-18, Hawaii Revised Statutes, has been amended to list other agencies assigned to the Department for administrative purposes, as defined by section 26-35, Hawaii Revised Statutes. At present this paragraph refers only to the Land Use Commission, and should be amended to include reference to the Aloha Tower Development Corporation, the Hawaii Community Development Authority, and the Natural Energy Laboratory of Hawaii, all of which are assigned by law to the Department.

3. A new Section 3 has been added to amend section 206J-3, Hawaii Revised Statutes, which designates boundaries of the Aloha Tower complex. The Department advises that the proposed changes in the metes and bounds description are needed to round off a portion of the boundary which follows the curb line between the existing building occupied by the Harbors Division and Irwin Park. The area is now used for roadway purposes, and rounding off the boundary at that point would permit greater flexibility in providing vehicular and pedestrian access to the site at the same area. Also, it would result in a better alignment of that access point with the existing Fort Street Mall. The Department reports that both the State Department of Transportation and the Federal Highway Administration indicate a willingness to relocate the roadway portion as part of the Aloha Tower complex.

Your Committee has made minor technical changes to the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 272, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 272, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 818 Economic Development on H.B. No. 280

The purpose of this bill is to amend chapter 269, Hawaii Revised Statutes, to clearly and specifically authorize the public utilities commission to promulgate rules, appoint hearing officers and hire lawyers as may be necessary.

A hearing was held on S.B. No. 164, the Senate companion to H.B. No. 280, and testimony supporting these changes were submitted. Presently, the commission is authorized to make and amend rules respecting the procedure before it, not specifically including the governing of a utility company's operation. It does not have the present authority to appoint hearing officers, who could represent the commission in any proceeding before it other than a proceeding involving rates or any other matters covered in the tariffs filed by the public utilities. The option of appointing hearing officers to represent the commission would allow the commissioners some relief from attendance at proceedings not related to rates or tariffs, and should thereby alleviate some of the commission's backlog of pending cases. Furthermore, the commission is authorized to hire only one attorney. Each decision and order must be reviewed by legal counsel before it can be issued; last year over 400 decisions and orders were issued, a tremendous load for one part-time attorney. Allowing the commission to hire one additional legal counsel would provide for a more speedy and efficient legal review.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 280, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 280, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 819 Consumer Protection and Commerce on H.B. No. 966

The purpose of this bill was to improve the enforcement of the no-fault law by requiring all insurers to issue a decal for each insured motor vehicle indicating current compliance with the no-fault law.

Your Committee concurs with the necessity of dealing with the problems caused by uninsured motorists who comprise approximately fourteen percent of Hawaii drivers.

Your Committee finds that the proposed decal system would be costly to the insurer and consumer, inconvenient to administer, and difficult to enforce, and has amended the bill by making the following substantive changes:

- a. Deleting the no-fault decal provisions and adding that instead, the present safety inspection procedure be utilized by requiring service stations to check for the existence of no-fault certificates prior to issuing a safety inspection sticker.
- b. Requiring that the certificate state that a no-fault insurance policy is in force for the owner of the vehicle and that the policy, if written within the preceding thirty days has at least three months of pre-paid coverage. The certificate shall also contain the name of the insurance company and the signature of an authorized representative of the insurance company.
- c. Requiring that every no-fault insurer issue a certificate when requested by an insured to provide proof of insurance.
- d. Requiring that an insurer notify the Director of finance of the county in which a vehicle is registered if the insurer has reason to believe the vehicle is no longer insured. The Director shall hold the notice until the next vehicle inspection due date and at that time the owner must prove that insurance is presently in force and has been since the last inspection date or be subject to a fine as an uninsured motorist. This requirement and the proof of three months of pre-paid insurance would rectify the situation where motorists obtain no-fault certificates and later cancel or fail to pay for their policies.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 966, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 966, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 820 Consumer Protection and Commerce on H.B. No. 287

The purpose of this bill is to clarify and update the regulatory laws relating to boxing.

Since 1980, the financial problems of two licensed boxing promoters have caused losses to persons engaged in the sport. Your Committee finds that the laws regulating boxing promoters should be strengthened and that promoters should be held accountable for their actions as provided by this bill.

This bill requires applicants for promoters' licenses to provide the boxing commission with evidence of financial integrity; if the applicant is a corporation, a copy of the affidavit of officers on file with the Department of Commerce and Consumer Affairs, or certificate of registration for foreign corporation and partnerships; and proof that the applicant has contracted for major medical insurance coverage for all boxers on the applicant's card. The bill would also increase the amount of the bond filed with the State by promoters from \$2,000 to \$5,000, and allow any aggrieved person suffering from default in performance by a promoter to recover monetary damages from the bond.

The bill would also raise certain boxing promotional fees assessed by the boxing commission, repeal the restriction barring persons under the age of sixteen years from boxing contests without an accompanying parent or guardian, and delete references to gender.

Your Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 287, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 287, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 821 Consumer Protection and Commerce on H.B. No. 291

The purpose of this bill is to clarify and improve the regulation of the practice of dentistry under Chapter 448, Hawaii Revised Statutes.

The substantive changes made by this bill by HRS Section are as follows:

- 1) Section 448-1. "Dentistry" is more clearly defined to include the diagnosis, prevention, and treatment of the teeth and oral cavities, and includes the restoration of defective or missing teeth.
- 2) Section 448-4. Detailed provisions regarding a dentist's liability for fraudulent advertising are deleted in favor of general language. Testimony by the Board of Dental Examiners indicates that the details will be incorporated into the Board's rules.
- 3) Section 448-6. Current law calls for the Board to have a president, secretary, and treasurer. This bill replaces the secretary and the treasurer with a vice-president because the duties of secretary and treasurer are relegated to the Department of Commerce and Consumer Affairs.
- 4) Section 448-8. This section, calling for the Board to submit an annual report, is repealed because the Department of Commerce and Consumer Affairs furnishes the Governor, upon request, information regarding all boards and commissions placed within the Department.
- 5) Section 448-9. The requirement that applicants present certificates showing that they are "of good moral character", is deleted in compliance with the Legislative Auditor's recommendation that such documents are not necessary for a proper evaluation and only cause unnecessary administrative burdens and inconvenience to applicants.
- 6) Section 448-9.5. Under present law, foreign applicants must take Parts I and II of the National Board of Dental Examiners examination after acceptance of credentials. This bill requires foreign applicants to take the examination

prior to applying for the license, to align the requirements with those established for non-foreign applicants.

- 7) Section 448-10. Under current law, applicants need take only the practical state examination. This bill requires applicants to also qualify in the written examination, in order to more fully demonstrate fitness to practice dentistry.

Your Committee has amended the bill by clarifying the language describing fraudulent advertising and restructuring the amendments to Section 448-9.5 relating to requiring graduates of foreign dental schools to take Parts I and II of the National Board of Dental Examiners prior to applying for a license. The latter amendments were made to maintain consistency in the statutes and for clarity.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 291, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 291, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 822 Consumer Protection and Commerce on H.B. No. 1402

The purpose of this bill is to change the composition of the contractors license board.

Presently, the board is comprised of thirteen members, three of whom are general building contractors, three of whom are general engineering contractors, three of whom are specialty contractors, and three of whom are noncontractors.

Since specialty contractors outnumber general contractors in the State, this bill would increase the number of specialty contractors on the board from three to five. The general contractor and noncontractor membership would both be reduced by one member and the total membership would remain at thirteen.

Your Committee has amended the bill by making nonsubstantive changes for the purposes of clarity and style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1402, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1402, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 823 Consumer Protection and Commerce on H.B. No. 289

The purpose of this bill was to require a license applicant to take both a written and a practical examination; to increase the reexamination fee; to amend the grading method; to amend the method of recognizing an applicant's practical experience; and to delete references to gender.

Current law provides that an applicant who has passed the national board examination may be granted a license without taking the practical demonstration examination. Your Committee finds that requiring applicants to submit to the practical examination as well will help to raise the overall standards of the profession.

The reexamination fee of \$25 was established in 1957 and in no way reflects the actual cost today. This bill would raise the fee to \$50, which your Committee finds to be a more realistic figure.

The present grading method is done by totaling all parts of the examination. In order to pass, the applicant must attain a general average score of seventy-five percent or higher and not go below sixty percent in more than two parts of the examination. This bill would change the method of grading by requiring the applicant to attain a passing score of seventy-five percent or higher in all parts of the examination, since all parts are considered equally important.

Under the present grading system, an applicant is given a credit of one percent for each year of practice as a chiropractor to be applied to the general average score on the examination. This bill would reduce the one percentage point for each year of experience to one-half percentage point, with a maximum attainable limit of twenty years. The total points of practical experience would be added to the total scores of each part of the examination.

Your Committee has amended the bill by deleting the last paragraph of Section 442-6, Hawaii Revised Statutes, in order to conform the statute with the examination requirement proposed by this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 289, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 289, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 824 (Majority) Ways and Means on H.B. No. 1

The purpose of this bill is to provide appropriations for the fiscal biennium, 1983-1985.

No condition has weighed more heavily on the deliberations on this bill than the continuing revenue shortfalls and the eventuality that the State faces an ominous expenditure-revenue gap. The signs of lagging revenue performance, which began to be significant last fall, have not improved. The 3.3 percent growth in general fund tax revenues, which was the experience in the first eight months of the current fiscal year, lags sharply behind the 8.2 percent increase which had originally been projected, and the estimates of the Council on Revenues, the latest of which were reported on March 15, provide little reason for optimism over the immediate short term.

Even as the state revenues fail to rise to expected performance, the State's fiscal condition is made doubly worse by heavy pressures to increase expenditures, a condition caused primarily by federal cutbacks of domestic programs. Because many of these programs provide such vital services, the pressure has been strong to make up federal revenue losses with increased state general fund support. The reality, unfortunately, is that the State will be hard pressed to even maintain general fund expenditure levels, let alone increase them.

The Legislature does have the option of riding the condition out, thereby leaving to the Governor the responsibility of managing the predicted budget deficits. In the view of your Committee, that would be an irresponsible action and an abdication of legislative authority. It would be easy to allow the Governor to make the necessary budget cutting decisions by enacting the budget as sent to your Committee or as submitted to the Legislature by the Governor. In that manner the Governor would have to make the hard decisions and would have to accept any criticisms from the public. Your Committee feels, however, that the Legislature must retain its prerogatives in establishing policy and setting the direction the State will take in the fiscal biennium. This period of time in Hawaii is a difficult period, therefore, the Legislature must be prepared, and must make the hard decisions necessary to get through this period. Only by performing its historical function of policy setting will the Legislature become stronger and be enabled to perform its policy making functions in the manner in which they should be performed. As difficult and onerous as the task may be, the Legislature must exercise its responsibility of establishing such basic financial policy as will safeguard the fiscal condition of the State.

The first necessary course of action has been budget cutting. The subject matter committees of the Senate and your Committee have given all proposed appropriations the sharpest scrutiny, and the budget has been pared significantly. Nonetheless, your Committee has concluded, reluctantly, that budget cutting alone will not correct the fiscal imbalance and that additional revenues will need to be raised for a short and temporary period of time. It is for these reasons that your Committee recommended, and the Senate passed, Senate Bill No. 1464 which provides for additional short-term tax revenues.

As a complementary action taken in this bill, your Committee has structured the budget into two parts. Part A includes those program appropriations which, in the

aggregate, can be funded under the projected revenue levels. Your Committee expects these appropriations to be fully allotted to the respective agencies. Part B includes those program appropriations which cannot be funded with current projected revenues, and therefore, your Committee has provided that these Part B appropriations will be allotted only if additional receipts are obtained, including those obtained through the enactment of Senate Bill No. 1464. In effect, your Committee has established a priority budget, one part of which can be funded by projected current revenues and one part of which is dependent on revenue enhancement. Your Committee also has amended the Judiciary Budget in a similar manner with Part A and Part B provisions.

Your Committee believes that the combination of budget cuts and additional temporary revenues is the most appropriate and prudent course of action to take at this time. Further budget cuts involving the elimination of Part B appropriations would in some cases seriously affect the public health, safety and welfare. At the same time, including such appropriations without providing a means for their funding would throw the budget into sharp imbalance and would, in the final analysis, be meaningless.

In the remainder of this report, your Committee highlights some of its program appropriations and concerns.

Economic Development

Tourism. From rather flat years between 1979 and 1981, tourism showed significant increases in 1982 and the signs for 1983 are also favorable. The growth needs to be sustained, and key factors in that growth are visitor satisfaction and visitor promotion. Substantial funds have been appropriated to carry out the activities of the Hawaii Visitors Bureau, and your Committee recommends that emphasis be placed in attracting visitors from such Asian countries as Taiwan, Singapore, Korea, Hong Kong, and Japan. The success of expanded promotion and marketing in 1982 indicates that continuing emphasis in promoting Hawaii in the Asian countries has a high potential in attracting additional visitors.

Agriculture. Appropriations have been made for agricultural product promotion and research and plant pest control. Promotion funds are intended to expand the diversified agriculture base, while research funds will be directed at new sources of livestock feed, including possible use of sugar cane fodder, and radiation disinfection of agricultural products. To assist in the safe elimination of harmful pests, funds have been provided for a workshop and manual on pesticides for farmers and for expansion of the Department of Agriculture's plant pest control program. Other needs, including those of sugar and pineapple, have been addressed in separate appropriation measures.

Aquaculture. Your Committee has reviewed the condition and future course of the State's aquaculture industry, and it favors the expansion of the State's efforts in such areas as fin fish and marine shrimps.

High technology. Because growth of the high technology industry is predicated upon growth of a strong research facility, your Committee has provided funding for the Pacific International Center for High Technology Research. This will allow the Department of Planning and Economic Development to offer matching funds for private contributions for research projects.

Telecommunications. It is widely acknowledged that because of Hawaii's location, communications is a crucial factor in the State's economic development potential. To facilitate communications throughout the Pacific basin and to attract new industries, company and regional headquarters, funds have been appropriated for an Office of Telecommunications within the Department of Planning and Economic Development.

Energy. Energy initiatives are being continued. Funds have been provided for the Hawaii deep water cable project, alternate energy demonstration projects, and a program of energy conservation in state buildings. In addition, funds have been appropriated for the Hawaii Natural Energy Institute to conduct research and development of hydrogen fuel.

Employment

Recent months have seen a significant change in approach to employment programs. The Comprehensive Employment and Training Act (CETA), which had been the cornerstone of federal employment programs for nearly a decade, has come

to an end. It has been succeeded by the Job Training Partnership Act (JTPA) which became law in October 1982.

Under JTPA, the dislocated worker program requires dollar for dollar matching of federal funds with non-federal funds. The program is for those who have been terminated or are soon to be terminated as a result of the permanent closure of a business. These persons are those with little or no prospect of returning to similar occupations in the areas where they live. Your Committee has provided state funds to participate in the program in the expectation that the program will be able to assist dislocated workers in returning to gainful employment.

Transportation

One of the more important decisions made in transportation is the deletion of funds for a general aviation airfield on Oahu. Your Committee believes that any further action on a general aviation airfield should be held in abeyance pending the federal government's report on the joint use of military airfields. Any alternative which might be offered by the federal government should be fully explored rather than commit funds to the construction of a new, costly facility at this time.

Environmental Protection

There has been an increasing awareness and concern by the citizens of the State of Hawaii about the effects of chemical pollutants within the environment. In order to address this need, your Committee has appropriated funds for an environmental toxicologist and epidemiologist to assist in detecting and determining the dangers of chemical pollutants. Your Committee has also approved additional positions for the pesticides program so that the Department of Agriculture can come closer to achieving the program objectives of ensuring the effective, efficient and safe use of pesticides and minimizing their possible adverse effects on people and the environment.

Health

In making reductions to health programs, your Committee has endeavored to ensure that these reductions were in areas that impacted the least upon the general public. In keeping with this philosophy, your Committee has not totally accepted the Governor's areas of possible reductions. Your Committee has decided to analyze the impact of each suggested reductions and to accept only those that would not jeopardize the operations of the department.

Your Committee has also recognized the need to provide the Mental Health Division of the Department of Health the flexibility to tailor appropriate services to its wide range of clients. Therefore, your Committee is in agreement with the department's request to transfer funds from personnel costs to purchases of service and for the additional appropriations of \$1.7 million lump-sum each year to provide necessary mental health services.

Your Committee also recognizes the needs of the patient-employees at the Kalaupapa Hansen's Disease settlement and has reported out a bill increasing the salaries of patient-employees. It is not the intent of the Legislature that the total sum expended for patient-employees salaries at Kalaupapa be kept at 1982-83 levels. Further, it is intended that as long as meaningful and necessary work is available, the patient-employees should be allowed work up to their current total hours. Your Committee recognizes the need to improve conditions at the Hawaii State Hospital, but it also feels that the most cost-effective plan should be utilized. Current estimates have been very high, and the Committee recommends that these estimates be reviewed and alternatives be thoroughly analyzed to avoid unnecessary or unduly high expenditures. The design planning funds are intended to be used for the most cost-effective arrangement.

Social Services

Your Committee is concerned that essential medical services be provided for those in need. However, concerns are also raised regarding the rising costs of medical care services. Therefore, your Committee has provided additional funding for the Health Care Payments program, but it is also requiring that the payments for medical care practitioners be reduced by 5 percent. To explore alternatives of reducing health care costs, your Committee has provided funding in FY1983-84 to establish a nursing home without walls demonstration project to provide extended home care services.

Among the options that had been proposed for the Medicaid program was the deletion of Waimano Home from Medicaid. Your Committee has decided that such a course would be unwise and has therefore continued to provide Medicaid funds to Waimano Home and maintain its eligibility for federal funds.

Your Committee has deleted second-year funding for the Progressive Neighborhoods program. This program was established to initiate projects on a demonstration basis; therefore, it is appropriate that the administration of the Community Service Centers be transferred to another appropriate agency, and consideration be given to the consolidation of the Progressive Neighborhood program with the Hawaii Office of Economic Opportunity.

Funds have been included for the computerization of eligibility determination for the various assistance programs. It is expected that computerization will enable the Department of Social Services to be much more efficient in reducing eligibility determination and redetermination errors and assist in preventing and detecting fraud and abuse.

Your Committee recommends that the Department of Hawaiian Home Lands carefully and expeditiously review its fiscal plans during the interim and submit to the Legislature a cohesive and applicable budget document next session. It is the intent of the Committee that a financial and management audit be performed and efforts be made to computerize its budget and financial accounts. The Federal-State Task Force on the Hawaiian Homes Commission Act has been reviewing, among other aspects, the department's financial system, and it is expected that recommendations for improvement will be forthcoming. Your Committee urges that other state agencies, and particularly the Department of Accounting and General Services, assist the Department of Hawaiian Home Lands in resolving its accounting and financial reporting problems.

Lower Education

Hawaiian Studies. In keeping with the mandate of Article X, Section 4 of the Hawaii State Constitution, which requires a Hawaiian education program in the public schools, your Committee has funded the expansion request for this program. Such funding will assist students in understanding Hawaii's cultural heritage, as noted in the State Education Plan. Furthermore, the program allows Hawaii's students to benefit from the unique expertise of the kupuna--the elders who teach in the program. Hawaiian Studies benefits pupils and kupuna alike and forges a special link between these two generations in our Island community.

Exceptional Children. As required by the provisions of Public Law 94-142, the expansion request for Summer School for the Handicapped has been funded. Your Committee recognizes the needs of students who face special types of educational difficulties. At the same time, the Committee comprehends the needs of gifted and talented students also and has made provisions for these students under the regular funding of the exceptional child program.

Computers in Education. Although your Committee recognizes that the computer has already become an important tool for learning, it is not convinced that the program submitted by the Department of Education is a viable one to achieve this end. Therefore, this item was deleted from the budget until a more acceptable alternative is devised.

Students of Limited English Proficiency. Your Committee is most concerned about the needs of students of limited English proficiency. Presently the program offered by the Department of Education is not in compliance with the United States Office of Civil Rights. Although the Committee recognizes the need for additional personnel in this program, the need is for qualified personnel. Therefore, funding has been included to provide training for such teachers at the University of Hawaii in English as a Second Language course. Other in-service training provisions for regular classroom teachers and instructional staff have also been included. In addition to funding 48 part-time positions, your Committee has also funded the Immigrant Youth Program of the Kalihi Palama Immigrant Services Center, Palama Interchurch Council. This grant-in-aid program supplements the regular SLEP program in an area with a high immigrant population; it provides an important link between schools, parents and immigrant youngsters.

Fifteen Percent Reallocation of Funds. Fiscal constraints have made it necessary to reallocate Department of Education administrative responsibilities. Therefore, a 15 percent reallocation of funds was imposed on EDN 303, District Administration;

EDN 304, State Administration; and EDN 205, Instructional Development. This reallocation is limited to a reduction of "A" costs for certified personnel only. Such a reallocation of personnel will re-focus resources at the school, classroom, and pupil level.

Additional Teachers. Your Committee is also concerned with maintaining the current level of services to children and has provided an additional 50 teacher positions in fiscal year 1983-84 and 59 teacher positions in fiscal year 1984-85 to accommodate the projected increase in enrollment over the 1983-85 fiscal biennium.

Student Transportation. In order to maintain student bus fares at the present rate of 10 cents a ride, a supplemental \$1,418,946 for each fiscal year has been added to the biennium budget. Your Committee continues to regard the provision of low-cost student transportation as being important to the goal of equal educational opportunity for all.

Higher Education

In light of national economic, political and social uncertainties, the University of Hawaii will be faced with the difficult challenge of meeting its priorities, despite federal cutbacks, continued inflation, and the changing demographic make-up of the university student population.

The higher education portion of the Executive Budget reflects the uncertainty of the State's financial situation. Included in the current service budget are only two program change requests.

The National New Technology Telescope (NNTT) is a high national priority for the 1980s in ground based astronomy. The request made to support the gathering and disseminating of quantitative site data to make a case for the NNTT to be built on Mauna Kea, is in accordance with the State Higher Education Plan: "To develop the Mauna Kea Observatory into a pre-eminent international center for observational astronomy." Therefore, your Committee has recommended funding for this study.

There is a continual need for nurses in Hawaii. In particular, the need for licensed practical nurses (LPNs) will continue to be prevalent, especially in the non-acute care facilities, as the State's population grows older and the costs of medical personnel continue to increase. According to manpower need surveys conducted, the need for LPNs far exceed the number of nurses the State can train. Kapiolani Community College is the only educational institution on Oahu that offers the Practical Nursing program accredited by the Hawaii State Board of Nursing. The college is now facing federal cutbacks which will result in the denial of approximately 36 students per year if general funds are not provided. Therefore, your Committee has recommended the funds be provided to Kapiolani Community College so that this program can continue at its current level of activity.

Your Committee has recommended funding for the Western Interstate Commission on Higher Education (WICHE), at a reduced level, only for the first fiscal year of the biennium. It is the intention of your Committee that the Legislative Auditor conduct a comprehensive study of the WICHE program to reassess its needs and to consider alternative means of financing for the program.

Culture and Recreation

Your Committee has emphasized the importance of public access to state lands by appropriating funds to acquire rights-of-way to state forest reserves and state beaches. Funds have also been provided for the maintenance and clearing of state forest reserve trails. To bring greater safety to water recreation, matching funds have been made available to the counties for the provision of life guards at designated state beach parks.

With respect to the State's major spectator facility, Aloha Stadium, your Committee feels that a master plan should be implemented to address such issues as the possibility of a permanent configuration, increasing the seating capacity, and maximizing the usage of the grounds surrounding the stadium.

Public Safety

Your Committee believes that there needs to be emphasis, not only on improvements to the criminal justice system, but in crime prevention, and particularly crime prevention among juveniles. Therefore funds have been included

for the University of Hawaii Youth Development and Research Center to expend funds for crime prevention activities among juveniles. One of the projects to be implemented is a Youth Development Project, a pilot project to assess the effects of school based intervention to prevent delinquency.

There is an apparent need for a new medium security corrections facility, but your Committee has reservations concerning the costs and projections for the proposed Halawa medium security facility. One concern is that by the time the proposed facility is completed, there will apparently be a need for still more prison beds. Under the circumstances, your Committee believes that it is more prudent to plan accurately for future needs rather than to undertake at this time the construction of a high-cost facility which, at best, provides no more than a short-term solution.

Your Committee recognizes the increasing inmate populations at Maui Community Correctional Center and Oahu Community Correctional Center and has provided additional funding and staff to accommodate these increases.

Support has been continued to provide assistance to victims of crimes through the funding of the victim-witness program. In addition, funds have been provided to aid the prosecution of organized crime elements by providing funds to the counties through the witness security program.

Individual Rights

If Senate Bill No. 13 is enacted, funds will have been provided for the yearly publication of all noncommercial property insurers and their annual premium rates for homeowners insurance policies. The guide is to be published in a generally circulated newspaper and will also provide information to assist the consumer in purchasing a policy.

Contingent upon the enactment of Senate Bill No. 555, fees charged for the processing of certificates of compliance; the registration of trademarks, labels or prints; the filing of corporations, legal processes or notices; and the fees for copies would be increased. Such increases are much needed to recover the cost of services rendered. Many of the fees have not been changed since the services were first established.

Government-Wide Support

Computerization. In an effort to more effectively manage existing financial resources, funds have been provided to the Department of Accounting and General Services to develop, implement, and maintain computerized systems on a departmental as well as statewide basis. The following inter-departmental systems are in the process of being implemented: Hawaii/FAMIS, the Bond Fund System, the Facilities Inventory Management System, the Work Order System, and the Energy Management System.

Communications. The anticipated deregulation of telecommunications is a major issue the State must confront in the coming biennium. To cope with this development, funds have been provided to coordinate a cohesive network of State telecommunications. The initial action will be to upgrade the present Centrex system, and other phases include the installation of a State-owned paging system, and extending the current microwave system to Kauai.

Personnel services. The development of a computer-assisted Applicant Information System for the Department of Personnel Services will be pursued to facilitate the management of large volumes of applicant information and to produce timely up-to-date eligibility lists. Within the proposed system, the certification process has been identified as the initial activity for computerization and funds have been provided for the acquisition of electronic data processing equipment, supplies and rental of terminals to implement the certification process.

Custodial services. With the establishment of the New Circuit Court and the New District Court buildings, the issue of custodial jurisdiction needs to be resolved. A decision has been made to transfer to the Judiciary the responsibility of maintaining custodial services for the two new buildings and budgeting for telephone expenses. The Department of Accounting and General Services will assume the utility and groundskeeping expenses for the new Courts, as it presently does for all other Judiciary facilities.

State Plan. Your Committee understands that the Department of Planning and Economic Development will begin the process of reviewing the goals, objectives and priority directions of the State Plan as mandated by Chapter 226, HRS, during the coming biennium. For this review, funds had been sought by the department for the areas of population and the economy. Studies of these areas were previously conducted to provide information for the formulation of the State Plan in 1978. In considering this matter, your Committee believes that the information and services needed for such studies are already available throughout State government. Therefore, the department is directed to devise a system for the retrieval of the desired information and the department's division of research and economic analysis should assist the State plans branch in the analysis of such information.

HIMAG. Your Committee has determined that the Hawaii Institute for Management and Analysis in Government (HIMAG) under Program Planning, Analysis and Budgeting (BUF 101), shall submit a comprehensive report to the Legislature. The institute has been in existence for a decade and a review of its activities and possible future direction would be appropriate. The required report shall include: (1) a description of the institute's current activities as it relates to the purposes and intent specified in Act 86, 1974 Session Laws; (2) an explanation of how the institute's current activities differ from services provided by other state departments; (3) a statement delineating the institute's different functions and activities as a research organization and as a training facility; (4) an outline of the institute's activities and major accomplishments during the past five years. The report is expected not less than twenty days prior to the convening of the 1984 Regular Session.

Coastal Zone Management. Faced with complete loss of federal funding for the Hawaii Coastal Zone Management program, your Committee has agreed to provide temporary general fund support to maintain the orderly planning effort for the State's coastal areas.

Land Use. In its review of the State's Land Use Division and Land Use Commission, your Committee favored delegation of regional land use decision-making and planning responsibilities to the counties.

Population. To maintain the vital function of population planning your Committee has appropriated funds, though at a reduced level, for the Commission on Population and the Hawaiian Future.

Recommendation

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

Signed by all members of the Committee except Senator Kawasaki.
Senators Ajifu, Henderson and Soares did not concur.

SCRep. 825 Consumer Protection and Commerce on H.B. No. 914

The purpose of this bill was to delete references to the law on retail installment sales from the laws on industrial loan companies.

Currently, Chapter 408, Hawaii Revised Statutes, provides very detailed laws which industrial loan companies must follow in making loans to the public. The Retail Installment Sales Act, Chapter 476, Hawaii Revised Statutes, provides sellers of goods with a different, although often similar, set of laws when the sale of goods and services are to be financed on some installment plan. These two separate laws are designed to govern the extension of credit by two entirely different groups of persons or companies. Industrial loan companies often purchase retail installment contracts and several references to the Retail Installment Sales Act have found their way into the Chapter 408. These references have created confusion in the laws. This bill will remove the confusing references between the two chapters, thus clarifying that retail installment contracts are to be made under Chapter 476 and loans under Chapter 408.

Your Committee has amended the bill to include provisions which would clarify the method of computing interest on open-end loans and raise the allowable interest rates for matured loans to reflect current market conditions as experienced by industrial loan companies.

Testimony supporting the bill was submitted by the Hawaii Bankers Association, the Hawaii Consumer Finance Association, and the Hawaii League of Savings Associations. Your Committee was assured that the higher allowable rates would not lead to abuse by industrial loan companies because the forces of market competition would ultimately dictate rates actually charged.

Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 914, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 914, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 826 Consumer Protection and Commerce on H.B. No. 527

The purpose of this bill was to allow industrial loan companies to charge prepayment penalties on real estate loans written for five years or longer, which are not adjustable, variable rate, or open-end loans.

Testimony by the Hawaii Consumer Finance Association indicated that institution of the prepayment penalty would partially compensate industrial loan companies for interest losses caused by prepayment and would establish parity for such companies with banks, savings and loan associations, and insurance companies, all of which are currently entitled to charge such penalties.

Under this bill, industrial loan companies could impose a prepayment charge equal to six months interest on any amount in excess of twenty per cent of the original principal prepaid for any reason in a twelve-month period, provided that 1) the amounts are prepaid within five years of the date of contract; 2) the loans are primarily secured by real property; 3) the prepayment charge is not applicable to adjustable or variable rate loans and open-end loans; and 4) the loan pre-payment is voluntary and not arising out of acceleration clauses in the mortgage loan contracts.

Your Committee amended the bill by deleting the word "primarily" on page 4, line 22, in order to insure that the loans are not construed to mean only first mortgage loans.

Your Committee has amended this bill by making language changes for the purpose of clarity and by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 527, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 527, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Holt, Uwayne, Henderson and Soares.

SCRep. 827 Consumer Protection and Commerce on H.B. No. 1088

The purpose of this bill was to amend Chapter 486H, Hawaii Revised Statutes, dealing with the relationship between gasoline dealers and petroleum distributors, to expand the definition of "good faith" and to require petroleum distributors to act in good faith in their franchise relationships with dealers.

The bill expands the definition of "good faith" as defined in Section 486H-1, Hawaii Revised Statutes, by adding language to the definition which prohibits petroleum distributors from imposing standards of conduct on gasoline dealers which are unreasonable and of material significance to the franchise relationship. The bill also amends Section 486H-5, Hawaii Revised Statutes, to require petroleum distributors to act in good faith in their franchise relationships with dealers.

Your Committee is in agreement that the bill will contribute to a more evenly balanced relationship between petroleum distributors and gasoline dealers.

Your Committee has amended the bill to make clear that a violation of the requirement of dealing in good faith on the part of a petroleum distributor gives rise to a private action under Section 486H-7, Hawaii Revised Statutes, and does not subject the petroleum distributor to civil penalties provided for under Section 486H-6, Hawaii Revised Statutes. Your Committee finds that this amendment is in keeping with the intent of this measure. This amendment was accepted by all parties testifying on the bill.

The bill was further amended to make clarifying language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1088, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1088, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Holt, Uwaine, Henderson and Soares.

SCRep. 828 Consumer Protection and Commerce on H.B. No. 811

The purpose of this bill was to reorganize and refine the statutory provisions relating to unfair and deceptive methods of competition in the insurance industry.

The statutory provisions were originally adopted in 1955, and while the original premises remain valid, your Committee feels there is a need to reorganize and refine the law in order to further clarify these statutes.

This bill amends the statutes by incorporating the provisions on unfair competition and unfair and deceptive acts and practices of the model act adopted by the National Association of Insurance Commissioners in 1977 (revised 1979).

Highlights of the bill include:

- 1) Integration of the Unfair Claims Settlement Practices Act into the body of the Unfair Practices Act;
- 2) Expansion of defined violations;
- 3) Strengthening of penalties for defined violations; and
- 4) Formulation of penalties for violations of cease and desist orders.

Your Committee believes that this measure will permit more efficient and effective regulation of trade practices in the insurance business.

Upon the recommendation of the Insurance Commissioner, your Committee has amended the bill to include within the proposed amendment to Section 431-643(10) relating to unfair claim settlement practices, provisions which set forth circumstances that give rise to a rebuttable presumption of a general business practice. The provisions increase protection for consumers because the section condemns certain business practices, i.e., acts committed with a certain degree of frequency, and a standard of frequency which indicates a business practice will enhance enforceability.

Your Committee further amended the bill by rearranging sections within the bill for the purpose of style and clarity and by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 811, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 811, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Holt, Uwaine, Henderson and Soares.

SCRep. 829 Consumer Protection and Commerce on H.B. No. 810

The purpose of this bill is to update and clarify the regulatory laws on beauty culture.

The practice of beauty culture is regulated by Chapter 439, Hawaii Revised Statutes. This bill would amend the chapter to:

- (1) delete gender references,
- (2) eliminate the positions of secretary and treasurer from the officers of the Board of Cosmetology and provide for an executive secretary,
- (3) establish biennial shop license renewal fees,
- (4) establish registration procedures and fees for instructor-trainees,
- (5) delete provisions requiring an applicant for a temporary registration certificate be a resident of the State for not less than sixty days, and
- (6) delete reference to specific number of hours of training for certification of hairdressers and cosmeticians to operate a school.

Your Committee has amended the bill by deleting provisions that require an applicant to be "of good moral character" as recommended by the Legislative Auditor who cited the need to eliminate "vagueness".

Your Committee has further amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 810, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 810, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Holt, Uwayne, Henderson and Soares.

SCRep. 830 Consumer Protection and Commerce on H.B. No. 915

The purpose of this bill was to restate and clarify that the intent of the Legislature in enacting Sections 294-6(a) and 294-36(b), Hawaii Revised Statutes, was, and still remains:

- (1) To deter persons from driving without motor vehicle insurance coverage, not only through criminal penalties, but through a limitation on the ability of the uninsured motorist to recover for injuries in tort which is more stringent than the limitations placed upon those who have obtained the coverage required by law; and
- (2) To prevent a person who is ineligible for no-fault benefits from bringing a civil action if the medical-rehabilitative limit is not reached within two years of the date of the motor vehicle accident.

The majority opinion of the Hawaii Supreme Court in *Joshua v. MTL, Inc.* (#8177 December 29, 1982) misread the intent of the Legislature and may have removed all limits on the time in which an uninsured motorist may bring an action for recovery in tort. The effect of the decision is that law abiding citizens who obtain coverage may not sue in tort under Section 294-6(a)(2), Hawaii Revised Statutes, unless they reach the medical-rehabilitative threshold within two years of the last payment of no-fault benefits, while persons who have failed to obtain coverage can sue at any time without having to reach the threshold.

The system of no-fault insurance established by Chapter 294, can only be effective if all drivers participate to the extent required by law. This bill treats uninsured drivers more severely than those who obtain the legally required coverage with the specific legislative intent of encouraging participation by all drivers in the no-fault insurance system. Since the Legislature has provided for persons economically unable to afford insurance under the public assistance provisions of the no-fault law, there is no valid reason for persons not to have no-fault insurance.

Your Committee received written testimony from the Attorney General's office recommending that Section 2 of the bill which adds a new section to Chapter 294 requiring the Attorney General to intervene in any suit contesting the validity or constitutionality of the chapter, be amended to allow the Attorney General discretion

in entering such suits. The Attorney General also recommended changing the retroactivity of the effective date of this bill because of its possible unconstitutionality.

Upon consideration, your Committee is in agreement with the recommendations and has amended the bill accordingly.

Your Committee has further amended the bill by establishing a \$1,000 fee, in lieu of fine for failing to obtain no-fault coverage, for any uninsured person bringing on action in tort, and by providing that Section 294-6 (Section 5 of the bill) shall apply regardless of the injured person's entitlement to no-fault benefits and whether or not the negligent party was driving a vehicle insured under a no-fault policy. Both amendments are intended to enhance the purposes enumerated above.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 915, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 915, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 831 Consumer Protection and Commerce on H.B. No. 1587

The purpose of this bill is to require liquor wholesalers to order, purchase, and receive liquor from the primary source of supply for the brand of liquor sought to be sold and provide that no supplier shall solicit, accept or fill any order for a licensee unless the supplier is the primary source of supply.

Your Committee finds that the bill acknowledges the right of any manufacturer in a free market to select or franchise wholesalers through which its products will be sold or distributed. We further find that the bill is not a franchise protection law, but that it permits franchises to exist as in the case of a free market. Your Committee feels that this "primary source" law would encourage competition, prevent monopolies, facilitate tax collection and liquor control.

Under this measure, the penalty for violation shall be the revocation of the license for not less than six months.

Your Committee amended the bill by changing the "grandfather" clause date to April 1, 1983 and by redefining the change in ownership provision relating to corporations from twenty to fifty percent stock ownership. The bill has been further amended to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1587, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1587, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Yamasaki, Henderson and Soares.

SCRep. 832 Consumer Protection and Commerce on H.B. No. 659

The purpose of this bill was to extend the repeal date of Chapter 444, relating to the Contractors Licensing Board, from December 31, 1983 to December 31, 1989.

The Board was originally scheduled to be sunsetted as of December 31, 1983. However, your Committee heard testimony from the Department of Commerce and Consumer Affairs, the Contractors License Board, the City and County of Honolulu, and the Construction Industry Legislative Organization, all supporting the bill, and your Committee finds that the Board serves a necessary function in protecting the health and safety of the public and should be retained.

Your Committee has amended the bill by incorporating substantive material as follows:

- 1) Section 444-11(4), requiring that an applicant for a contractors license be a resident of the State for one year, is deleted on the basis of probable unconstitutionality.

- 2) Section 444-12(b), requiring that every license application be accompanied by at least two certificates swearing "that the applicant bears a good reputation for honesty, truthfulness, and fair dealing," is also deleted on the same basis as Section 444-11(4).
- 3) The maximum amount obtainable by an injured party from the Contractors Recovery Fund, as provided in Section 444-26, is raised from \$10,000 to \$15,000, and the initial contribution into the fund is raised from \$150 to \$250 per licensee. In addition, the maximum liability for any licensed contractor, as provided in Section 444-34, is raised from \$20,000 to \$30,000. These increases reflect increased costs and are designed to provide increased protection for consumers.
- 4) The minimum balance at which action must be taken to replenish the Contractors Recovery Fund, as provided in Section 444-27, is raised from \$150,000 to \$250,000, and the additional contribution should the fund dip below the minimum, is raised from \$150 to \$250, also to reflect increased costs and to afford a greater measure of protection to consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 659, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 659, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 833 Consumer Protection and Commerce on H.B. No. 286

The purpose of this bill was to eliminate the positions of secretary and treasurer of the board of barbers; to assign an executive secretary to service the board; to establish a minimum of four board meetings a year; to remove specific references as to the day and month board meetings will be held and to eliminate the requirement that three board members be Oahu residents and two board members be residents of the neighbor islands.

Presently, the board of barbers has a secretary and treasurer and there is no specific provision for an executive secretary. The bill amends the statutes by deleting the requirement for a treasurer and secretary and by providing for an executive secretary assigned by the Department of Commerce and Consumer Affairs to service the board.

Under current statutes, the board must meet in Honolulu the second Tuesday of January and July. The bill amends the statutes by deleting specific meeting dates, but by specifying that the board must meet at least once every three months. The law presently requires three members of the board to be residents of Oahu and two to be residents of the neighbor islands. This bill amends the statutes by deleting this requirement.

Your Committee has amended the bill by specifying that the board of barbers must meet once in January, April, July and October of each year, and by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 286, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 286, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 834 Consumer Protection and Commerce on H.B. No. 274

The purpose of this bill was to amend the Motor Vehicle Accident Reparations Act by:

- (a) clarifying the definition of "motor vehicle";
- (b) requiring insurers to pay no-fault claims within thirty days;
- (c) deleting the present provision making no-fault benefits secondary to social security laws;

- (d) allowing the Insurance Commissioner to award attorneys' fees in no-fault administrative hearings; and
- (e) allowing the Insurance Commissioner to retain jurisdiction over claims which exceed \$5,000 solely by virtue of late payment penalties.

Your Committee is in agreement that the changes to the no-fault law provided for in this bill will improve the effectiveness and administration of the law.

Upon consideration of this measure, your Committee has amended the bill to make no-fault benefits primary to workers' compensation benefits. Your Committee finds that this amendment is responsive to current public concern with the increasing cost of workers' compensation insurance.

Further, your Committee has amended the bill to make a technical change which has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 274, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 274, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Cayetano, Holt and Toguchi.

SCRep. 835 (Majority) Ways and Means on H.B. No. 702

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

Your Committee has reviewed OHA's general fund budget request for the fiscal biennium 1983-85 and was faced with three major areas of concern:

- 1) The funding of OHA's budget request by lump sum funding approach versus program appropriations. Your Committee has followed as have past committees, a lump sum approach to OHA's request. This should provide OHA with the needed flexibility to execute its various responsibilities. Your Committee encourages OHA to pursue a viable program appropriation budget in the future, to allow accurate and expedient review.
- 2) The matching of general fund appropriations and OHA trust fund receipts in the payment of administrative and fringe benefit costs. Your Committee has found that past and current OHA budgets have used general funds to pay for a majority of administrative and fringe benefit expenses. Your Committee feels that fringe benefit costs, like administrative costs, should be shared equally between the general fund and OHA's ceded land monies.
- 3) The lack of a clear, viable plan for the accounting of funds between Hawaiian and Native Hawaiian programs within OHA. Considerable concern has been raised over the use and co-mingling of funds within OHA in the attempt of the Office to accurately address the concerns of their varied beneficiaries. Your Committee feels OHA should devise a plan to handle this mixing of funds to enable its programs to grow as funds are available. This financial plan should be incorporated into a budget by program appropriation, so that program costs can be categorized and reviewed like other state agencies. The budget should accurately display accounting functions within the Office, distinguishing between program areas, administrative allocation and types of fund utilized.

Your Committee has amended this bill to ensure fringe benefit expenses are shared equally between the State of Hawaii and the Office of Hawaiian Affairs. Your Committee has also added language to have OHA assemble a workable financial plan and budget that can be utilized to efficiently delineate between types of funding, allocations and use. This plan and budget should address the concerns raised over the use of general fund monies and ceded land revenues within OHA.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 702, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 702, H.D. 2, S.D. 2.

Signed by all members of the Committee.
Senators Kawasaki and Ajifu did not concur.

SCRep. 836 (Majority) Ways and Means on H.B. No. 387

Your Committee is vitally concerned about the phenomenal growth in court operations and judicial related services and programs. The Judiciary Branch estimates a need for a 33% increase in expenditures over the 1983-85 biennium, amounting to a biennial budget which would exceed \$40 million. Your Committee fully recognizes that with the emergence of external social conditions an increased demand for judicial services and programs have resulted and, consequently, the demand for increased general fund assistance. However, in evaluating the judicial budget request, your Committee has been mindful of the current state of our State's economy and the scarcity of available resources necessary to achieve the optimal level of court services.

Your Committee feels that adequate services can continue to be provided through the initiation of internal reorganization schemes, the elimination of some inherent operational inefficiencies, the prioritization of needed services, and the development of alternative modes of dispute resolution.

In this regard, your Committee feels that it is essential to begin to question the role of the judicial system within our society and to seek reforms which will enhance the provision of services in the most economical way, without jeopardizing public access to the judicial process. This concern has, indeed, been addressed by the Judiciary itself:

The demands being placed on the courts by a society that is becoming more litigious-minded raise serious questions as to whether the Judiciary will ever have enough resources and manpower to provide the kinds of services the public expects. It is not a question of whether the demand can be met by the present judicial system, but whether the time has come to ask more basic questions about the process and procedures. There is a need to establish in a policy context just what role the Judiciary is to play not only in the development of judicial processes, but also concerning its participation in establishing new directives for society.

Your Committee, therefore, is in full agreement with the Judiciary's request for funds for an independent financial audit and has approved the setting aside of \$100,000 for that purpose.

Your Committee has amended the bill by prioritizing program appropriations according to two parts. Part A priority program appropriations shall be fully allotted to the judiciary provided that sufficient revenue is available from taxes or other sources to fund Part A of this Act, Part A of the State Budget Act, the Legislative Appropriations Act, and the Office of Hawaiian Affairs Budget Act. Part B priority program appropriations shall be allotted only if the total receipts from taxes or other sources, including revenues obtained by the passage of S.B. 1464, exceed the sum necessary to fund all program appropriations contained in Part A of this Act, Part A of the State Budget Act of 1983, the Legislative Appropriations Act of 1983, the Office of Hawaiian Affairs Budget Act of 1983, and any other Acts appropriating general funds not yet expended or lapsed for each year of the biennium.

Your Committee has also amended the bill to provide funds for the support of existing services and for essential workload increases. Additionally, your Committee has agreed to the Judiciary's request for the funding of public assistance programs which provide critical services to juveniles and adults. Furthermore, your Committee has continued to express its support of alternative means of resolving disputes by including funding for community mediation services.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 387, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 387, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.
Senators Ajifu and Soares did not concur.

SCRep. 837 Ways and Means on H.B. No. 268

The purpose of this bill is to abolish the commission on population and the Hawaiian future.

The commission, established in 1973, has served in an advisory capacity on

population and planning issues. With the adoption of the Hawaii State Plan in 1978, however, the State has strengthened its commitment and obligation to plan and manage population growth and distribution. In addition, Article IX, section 6, of the State Constitution, passed by the 1978 Constitutional Convention and ratified by the voters, requires the State and counties to plan and manage population growth to protect the public health and welfare. Your Committee believes the establishment of these mandates provides a basis on which further measures can be taken and directions pursued, and thus the eleven-member advisory commission is no longer necessary to deal with population issues.

Your Committee has amended this bill to add a new section to chapter 201, Hawaii Revised Statutes, to require the department of planning and economic development to perform population planning and management functions.

The employees and records of the commission on population and the Hawaiian future have been transferred to the department.

Your Committee also has made minor technical changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 268, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 268, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 838 Ways and Means on H.B. No. 1018

The purpose of this bill is to permit the establishment of international banking facilities in Hawaii.

Your Committee finds that international banking facilities would promote foreign investment in the State, particularly from Asia, and enhance Hawaii's objective of becoming a Pacific-Asian trade and business center.

Your Committee received testimony from the Department of Taxation, the Department of Planning and Economic Development, and other interested parties in general support of this measure which would promote Hawaii as a leading center for international commerce and finance in the Pacific. Further, international banking facilities would not pose a competitive threat to Hawaii-based financial institutions inasmuch as they cannot engage in domestic banking transactions and are only allowed to handle international business with foreign individuals and corporations.

Your Committee has amended the bill by (1) adding a new subsection to the second section of the new part proposed in Section 2 of the bill to require that international banking facilities be placed in the Department of Commerce and Consumer Affairs for regulatory and administrative purposes; and (2) adding an appropriation section to provide \$25,000 to the Department of Commerce and Consumer Affairs to carry out the purposes of this Act and to regulate the international banking facilities that are established pursuant to this Act.

Your Committee has also made numerous technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1018, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1018, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 839 Ways and Means on H.B. No. 1505

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$10,000,000 in one or more series to assist Aloha Studios, Inc., a Hawaii corporation, in the generation of new capital for the establishment of industrial enterprise facilities relating to the performing arts.

Aloha Studios has begun negotiations to lease property at the old Primo Brewery in Pearl City to build a full-fledged film studio. Tentatively scheduled to be fully operational in late 1984, the studio will provide film and sound stages, post-production facilities, theatres, related activities and services, and support facilities and services. Such facilities and services are designated to attract new

segments of the film industry to Hawaii, while providing excellent facilities for on-going productions in the State.

Your Committee finds there is a need for a functioning sound stage and motion picture center in Hawaii. Your Committee further finds that a full-fledged film studio would enhance the growth and development of the film industry in Hawaii, contribute to economic diversification, and increase employment opportunities for Hawaii's residents. Commercial filming is a non-polluting industry, environmentally compatible with the interests of the State. The industry does not deplete Hawaii's natural resources, and it advertises and promotes the Island's natural beauty and cultural diversity.

According to Aloha Studios, it has received definite interest from a television series entitled "Hawaii High" which should bring approximately \$15 million of new revenue to the State, and from a post-production facility, which should bring approximately \$8 million worth of state-of-the-art equipment. The Aloha Studios facilities, moreover, will permit new types of production, such as variety hours, live shows, specials, and teleconferencing, heretofore not considered for Hawaiian production.

Your Committee believes the issuance of special purpose revenue bonds would provide excellent financing for the studio's development and would not create an obligation of cost to the State.

Your Committee has amended the bill to clarify that a partnership of which Aloha Studios, Inc., is a general partner may also be assisted by the special purpose revenue bonds. Your Committee has also amended the bill by (1) attaching Aloha Studios, Inc., to the Department of Budget and Finance for administrative purposes, (2) appropriating \$10,000 for support services, and (3) making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1505, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1505, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 840 Ways and Means on H.B. No. 393

The purpose of this bill is to establish a land evaluation and site assessment commission under the Legislative Reference Bureau for administrative purposes, to advise the Legislature in the formulation of a state land evaluation and site assessment system in identifying agricultural lands of importance to the State of Hawaii, patterned after the system of the United States Department of Agriculture's Social Conservation System.

Your Committee made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 393, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 393, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 841 Ways and Means on H.B. No. 502

The purpose of this bill is to require a newborn child to be tested for congenital hypothyroidism in addition to the test for phenylketonuria mandated under current law.

Your Committee has amended the bill to allow, instead of require, the physician, midwife, or other person attending a newborn child to administer the test to detect phenylketonuria and congenital hypothyroidism. Your Committee feels that the public health will continue to be protected adequately since the test may be conducted if desired by the physician, midwife, or parent.

Your Committee also has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 502, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 502, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 842 Ways and Means on H.B. No. 1121

The purpose of this bill is to exempt hospital administrators and assistant administrators from civil service status, to allow the Director of Health to contract with private individuals or corporations for management services for Hilo Hospital, and to require that a complete report on the county/state hospital system and contracts awarded pursuant to this bill be submitted to the Legislature in 1984.

Your Committee finds that the provisions of this measure would increase the flexibility of the Department of Health in managing the county/state hospital system. According to testimony from the Department of Health, administrative vacancies in Hilo Hospital threaten its operations because of the considerable leadership role exercised by these administrators. The recruitment and establishment of a new administrator under civil service rules is a lengthy process which may leave Hilo Hospital without on-site leadership for lengthy periods of time. Recruitment itself may be difficult because, in many cases, only the lowest step in a salary range can be offered to a candidate.

Your Committee finds that this bill permits the contracting out of management services to the private sector, which is a cost-effective alternative to the present system of management.

Your Committee has made minor technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1121, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1121, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 843 Ways and Means on H.B. No. 314

The purpose of this bill is to allow the Hawaii Housing Authority to issue up to \$75 million in taxable revenue bonds to finance the acquisition of the fee title to leasehold properties under the Land Reform Program.

The Authority has converted approximately 5,500 leasehold lots to fee simple ownership and there are currently 7,100 lots in the conversion process. The Authority estimates that approximately \$225 million will be needed to finance the lots undergoing conversion and \$55 million will be needed to finance the lots already converted as many are under short-term agreements of sale with landowners.

For a variety of reasons, relatively few loans have been made by local lenders to lessees to finance the purchase of the leased fee interest. The primary reason is the inability of the lenders to "sell" these loans in the secondary mortgage market. Although the Federal National Mortgage Association (FNMA), a secondary mortgage purchaser, has recently initiated a direct purchase program, it is too soon to predict whether this FNMA program will be acceptable to lenders. The program established by this bill is viewed as a "stand-by" to be initiated if local lenders and FNMA do not provide the funds needed to make loans to lessees.

Under this bill, the Authority would serve as a conduit between lenders and the securities marketplace. Newly originated mortgage loans will be packaged into a taxable mortgage security which will be sold to investors throughout the United States. These investors will provide new capital funds needed to finance leasehold conversions.

Your Committee wishes to emphasize that the fee title acquisition loan program will not have any impact on the State's financing abilities nor cost the State of Hawaii any money. All expenses incurred will be paid from program revenues or bond proceeds. In addition, since the Authority will be issuing taxable, rather than tax-exempt securities, there will be little effect on the State's ability to raise money from the sale of general obligation or revenue bonds because the investors in the two markets form two distinct segments of the bond market.

This bill also amends the Land Reform Act to address concerns in the February 1982 Legislative Auditor's Management Audit of the land reform program. Specifically, the bill (1) allows the Authority to collect deposits from lessees upon application to purchase fee title to their residential property; (2) ensures that the

Authority is reimbursed for administrative costs by lessees who withdraw during the conversion process; (3) eliminates the statutory limit on the lessee's deposit; (4) clarifies the Authority's liability for deposits collected; and (5) provides that interest earned on moneys deposited by lessees accrue to the lessees.

Your Committee has made minor, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 314, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 314, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 844 Ways and Means on H.B. No. 1061

The purpose of this bill is to extend the application of general excise tax exemptions to include all participants who contribute in the development of housing projects certified by the Hawaii Housing Authority (HHA) pursuant to chapter 359G, Hawaii Revised Statutes. It also exempts from general excise taxes rents received by limited distribution corporations for units within housing projects certified by HHA. Further, income earned and obligations issued by public housing agencies which are exempt from federal taxes will be exempt from all state taxes.

These provisions are desirable, not only to decrease the cost of deliverable government housing, but to stimulate private sector participation in government-assisted housing development. Private sector participation is an integral element in federal and state housing programs. This is best exemplified in the processes and requirements of the federal Section 8 housing assistance program which requires private sector housing development for government housing targets in specific areas. These government assistance programs, however, are in some instances insufficient to foster wide participation and acceptance by the private sector due to current economic and housing market conditions. Additionally, private sector development of rental housing is almost nonexistent due to high capital and production costs, and for this reason, government assistance is highly desirable.

To alleviate private sector nonparticipation, housing development incentives are necessary. We must attract competent development entities to participate in existing government housing assistance programs. The incentives contained in this bill are designed to further reduce the price consumers pay for government-assisted housing.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1061, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 845 Ways and Means on H.B. No. 236

The purpose of this bill as received by your Committee was to raise the ceiling on the Hawaiian home loan fund from \$5,000,000 to \$10,000,000, stipulate that the Hawaiian home general loan fund be used solely for the construction of homes, and provide that any amount of the Hawaiian home administration account which is in excess of the amount approved by the Legislature shall be transferred to the Hawaiian home general loan fund.

Your Committee has amended the bill to clarify and correct inconsistencies in sections 213 and 225, Hawaiian Homes Commission Act, relating to funds for deposit of money earned through investments, change the title of the Hawaiian loan interest fund to the "Hawaiian home interest fund", allow moneys from the borrowed money fund to be deposited in the Hawaiian loan interest fund and moneys from the Hawaiian home loan fund to be deposited into the Hawaiian home operating fund, delete the requirement that the Hawaiian home general loan fund be used solely for the construction of homes, and delete the provision that any amount of the Hawaiian home administration account which is in excess of the amount approved by the Legislature shall be transferred to the Hawaiian home general loan fund.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 236, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 236, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 846 Ways and Means on H.B. No. 81

The purpose of this bill is to provide information to assist the Department of Taxation in enforcing the collection of general excise taxes.

Under current law, a four percent tax on gross rents received from rentals of real property located in the State is imposed; however, your Committee finds that the State is losing large amounts of revenue as a result of out-of-state owners of real property failing to pay general excise taxes on rents collected. Enforcement is laborious because the Department of Taxation has difficulty identifying and locating property owners. The Department recovered \$200,000 in revenues last year during a two-month enforcement period.

Many out-of-state owners of real property as well as local owners employ an agent to collect rentals from real property. In order to provide the Department of Taxation with information on rentals collected by such owners, this bill proposes to require the filing of a copy of the first page of the rental collection agreement which includes the name, address, social security number, general excise tax license number of the property owner, the address of the property rented, and a statement in ten-point bold print indicating that a copy of the first page of the agreement shall be filed with the Department of Taxation and that the owner must pay general excise taxes on the gross rent collected, or in lieu of the first page of a rental collection agreement, a copy of Internal Revenue Service form 1099. Your Committee has amended this bill by requiring in addition to form 1099, filing of the property owner's social security number and general excise tax license number.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 81, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 81, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 847 Ways and Means on H.B. No. 329

The purpose of this bill is to change the definition of heat pumps by deleting the expression "in home water heaters".

By changing the definition of "heat pump", commercial users, as well as residential users, will be eligible for the 10 percent tax credit. Thus, both residential and commercial users will be encouraged to use such energy conserving devices.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 329, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 848 Ways and Means on H.B. No. 670

The purpose of this bill is to provide emergency financial assistance to the county of Kauai.

The damage that Hurricane Iwa inflicted on the island of Kauai was extensive. Based on damage claims submitted by individual agencies to the Federal Emergency Management Agency (FEMA), the estimated replacement value of losses to county property on Kauai is approximately \$6 million. Although FEMA will pay for seventy-five percent of the cost of replacing damaged and destroyed property, the county is required to put up the remaining twenty-five percent, which will amount to about \$1.5 to \$2 million.

According to federal regulations, all repair work must be completed within 18 months of the disaster. Therefore, Kauai must act expeditiously to ensure completion of all repair and reconstruction.

Your Committee finds that the county is not in a position to meet its share of the cost because of severely reduced revenues caused by Hurricane Iwa. Your Committee further finds that the State has a responsibility in this extraordinary situation to furnish immediate emergency assistance to the county of Kauai. This bill authorizes an appropriation of \$2,000,000 to provide such assistance during fiscal years 1982-1983 and 1983-1984.

Your Committee has amended the bill by reducing the appropriation to \$1,000 and by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 670, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 670, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 849 Ways and Means on H.B. No. 781

The purpose of this bill is to require that jurors be paid mileage when traveling from court, increase the standard rate of pay to jurors from \$20 to \$30 a day, an amount at least equal to the minimum wage based upon an eight-hour day, and to authorize the court to increase or decrease juror compensation when appropriate in order to give the court flexibility in cases where a juror does not work or works only part-time.

Presently, section 612-8, Hawaii Revised Statutes, sets payment for jurors, at 20 cents per mile traveled to court, however it is silent as to payment for mileage from court.

Your Committee finds that justice will be served by reducing some of the financial burdens of jury duty. This is especially true in very long trials.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 781, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 850 Economic Development on H.B. No. 1123

The purpose of this bill is (1) to permit the governor to appoint temporary replacements to the board of land and natural resources, when a member is disqualified and a quorum is needed; (2) to permit the board to extend the time to make decisions on conservation district use applications, where a contested case hearing has been requested; and (3) to permit the board to appoint masters or hearing officers to hear contested case hearings and to conduct public hearings for subdivision and commercial use conservation district use applications.

The board is faced with a heavy workload in hearing contested cases. First, full board meetings are required, and a quorum cannot be constituted because board members may disqualify themselves from voting on or participating in discussions when they have any interest, direct or indirect, in any matter before the board. As a result, there is a need to provide some relief to assist the board in carrying out its responsibilities. The bill would allow the board to grant requests by applicants to extend the 180-day period for hearings on conservation district use applications where a contested case hearing is requested. At the same time, the board would be able to appoint masters to conduct public hearings as provided by law and under such conditions as the board by rules might establish.

Your Committee has deleted the provision allowing temporary replacements for purposes of a quorum. Your Committee believes that such a practice may encourage absenteeism and allow members the opportunity to refrain from voting on controversial issues that are before the board.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1123, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1123, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Aki and Cobb.

SCRep. 851 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 58 and 59, S.R. No. 73 and Stand. Com. Rep. No. 852 on April 4, 1983 at the 11:00 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 852 Culture and Arts on Gov. Msg. Nos. 100, 101, 102, 227 and 228

Recommending that the Senate advise and consent to the nominations of the following:

EDITH L.P. BANDMANN to the King Kamehameha Celebration Commission, for a term ending December 31, 1985;

THELMA BLACK, ELIZABETH FLATEAU, CANDACE K. LEE, EDWARD NAIHE, SR., and TANYA K. SHITO to the King Kamehameha Celebration Commission, for terms ending December 31, 1986;

SHARON AOKI, ANN B. SIMPSON, MARY P. STEINER and ROBERT T. YOKOYAMA to the Board of Public Broadcasting, for terms ending December 31, 1988;

WILLARD WELSH to the Board of Public Broadcasting, for a term ending December 31, 1984; and

YUKIE UEOKA to the 1984 Hawaii Statehood Silver Jubilee Committee, for a term ending June 30, 1986.

Signed by all members of the Committee.

SCRep. 853 Judiciary on Gov. Msg. Nos. 141 and 146

Recommending that the Senate advise and consent to the nominations of the following:

KAYO R. CHUNG to the Hawaii Paroling Authority, for a term ending December 31, 1986; and

JAMES A. KING to the Commission to Promote Uniform Legislation, for a term ending December 31, 1986.

Signed by all members of the Committee except Senators Cobb, George, A. Kobayashi and Toguchi.

SCRep. 854 Judiciary on Gov. Msg. Nos. 246, 247 and 248

Recommending that the Senate advise and consent to the nominations of the following:

TANY S. HONG as Attorney General, for a term ending December 1, 1986;

CORA LUM to the Hawaii Crime Commission, for a term ending January 30, 1984;

LOIS J. EVORA to the Commission on the Status of Women, for a term ending December 31, 1985; and

BLOSSOM Y. TYAU, TERESA M. MCGRAW and ALICE I. YAMANISHI to the Commission on the Status of Women, for terms ending December 31, 1986.

Signed by all members of the Committee except Senators Cobb, George, A. Kobayashi and Toguchi.

SCRep. 855 Judiciary on Gov. Msg. Nos. 142, 143, 144, 145, 201, 202 and 203

Recommending that the Senate advise and consent to the nominations of the following:

BOYD MOSSMAN to the Juvenile Justice Interagency Board, for a term ending December 31, 1986;

JUDY T. MAKINODAN and RUTH FUJIMOTO to the Commission on the Status of Women, for terms ending December 31, 1986;

SHOTA SAKAI to the Board of Registration, Island of Oahu, for a term ending December 31, 1986;

YURIKO N. TASAKA to the Board of Registration, Kauai and Niihau, for a term ending December 31, 1986;

GILBERT LEE to the Criminal Injuries Compensation Commission for a term ending December 31, 1986;

CHARLES M.L.S. NAKOA to the Juvenile Justice Interagency Board, for a term ending December 31, 1986; and

SANFORD S. SAKUMOTO to the Board of Registration, Maui, Molokai, Lanai, and Kahoolawe, for a term ending December 31, 1986.

Signed by all members of the Committee except Senators Cobb, George, A. Kobayashi and Toguchi.

SCRep. 856 Economic Development on H.B. No. 703

The purpose of this bill is to encourage the generation of electricity from non-fossil fuel sources by providing framework for the setting of rates by the public utilities commission for purchase by electric utilities of alternate energy.

This bill addresses payments by utilities for qualifying small power producers and cogenerators under the rules set forth in the Federal Public Utility Regulatory Policies Act (PURPA) of 1978. Under PURPA, the utilities are required to pay not less than 100 percent of full avoided costs for both firm and non-firm energy sources. In this regard, "avoided costs" is meant to mean the dollar savings a utility enjoys by virtue of the receipt of energy from alternate sources relative to the cost of generating the energy by its own means. Payments at this level have been determined to be the minimum level of encouragement necessary to support continued development of cogeneration and small power production.

Importantly, the federal rules expressly permit state public utilities commission to authorize payments in excess of full avoided costs if deemed necessary for encouragement of the technologies. In light of the federal law and activities in other states to implement PURPA, your Committee finds that the public utilities commission has been slow to implement the pricing and other rules. As a result, your Committee has determined that the commission has not been encouraging Hawaii's utilities to work with qualifying facilities to reduce our state's dependence on fossil fuels.

Your Committee has heard comprehensive testimony on alternate energy electrical generation on a number of bills introduced in this session of the Legislature. H.B. No. 703, H.D. 1 represents the culmination of efforts of many interested and affected groups to provide enabling legislation to guide the public utilities commission in the implementation of an electrical rate structure for alternate energy for the State of Hawaii.

As a result, your Committee has heard favorable support for this bill from the department of planning and economic development, Wind Energy Associates, the Hawaii Sugar Planters' Association, Renewable Energy Ventures and Hawaiian Dredging and Construction Company.

It is your Committee's intent in adopting the proposed bill that the public utilities commission set a single uniform rate for all alternate sources of electrical energy. Your Committee is mindful of the fact that alternate energy sources such as geothermal, bagasse and wind each have their own unique characteristics regarding daily, seasonal, annual and long-term production and availability; that all sources are not equally firm at all times. For example, while wind energy may vary on a seasonal basis, its continued availability over an extended period of time may well compare favorably with bagasse and geothermal generated electricity which have their own long-term development concerns. In this regard, your Committee believes that, in order to stimulate and expedite the development of alternate energy sources and to phase out fossil fuel dependence in Hawaii without delay, a single, common rate for utility purchases of alternate energy electric power is necessary and appropriate.

In setting the rate for utility purchases of alternate energy electrical power, it is the intent of your Committee that the commission set the rate at 100 percent of the estimated avoided cost to the utilities, including consideration for energy, capacity, operations, maintenance, transmission and distribution line loss, fuel inventory and any indirect costs that may reasonably be expected to be avoided by the purchase of the most firm alternate electrical energy source.

In addition to setting a rate at 100 percent of avoided cost, it is your Committee's intent that a base rate or minimum floor also be determined. The purpose of the minimum floor is to provide an income floor to alternate energy sources in order to protect them against large fluctuations in the cost of fossil fuels such as has been experienced during the last several months of 1982 and the first three months of 1983. It is intended that the minimum floor be set at a level sufficient to stimulate alternate energy development and, at the same time, be fair to the consumer. Your Committee anticipates that, due to fluctuations in the cost of fossil fuels resulting from actions taken by OPEC and other oil producers, the cost for fossil fuels may, from time to time, decrease to a point at which 100 percent of the full avoided cost may become equal to or even fall below the minimum floor established by the commission. It is your Committee's intent that, under such circumstances, the minimum floor shall prevail until such time as 100 percent of full avoided cost exceeds the minimum floor. Such a step is needed in your Committee's judgement in order to sustain the State's momentum and nationwide leadership in alternate energy development. Your Committee finds that, at the present time, a minimum floor of 9 cents per kWh is appropriate and in the public interest.

Your Committee is well aware that the approach provided herein may be considered unique. However, innovative measures appear necessary in order to assist alternate energy development in Hawaii in an optimum fashion. Further, your Committee feels that the commission should seriously consider the feasibility of requiring long-term contracts with suppliers of alternate energy.

It is anticipated that future sessions of the Legislature will re-examine the continuing efforts of alternate energy producers, the commission, and Hawaii's public utilities, towards energy independence for the State of Hawaii in light of changing technology and economic factors in the marketplace.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 703, 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 Senators Cobb, Machida and Henderson.

SCRep. 857 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 60 to 63, S.R. Nos. 74 to 79 and Stand. Com. Rep. Nos. 853 to 856 on April 4, 1983; and

Stand. Com. Rep. Nos. 858 to 860 on April 6, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 858 Housing and Urban Development on Gov. Msg. No. 134

Recommending that the Senate advise and consent to the nominations of JOHN P. SPIERLING and GEORGE G. COSTA, JR., to the Hawaii Housing Authority, for terms ending December 31, 1983, and December 31, 1984, respectively.

Signed by all members of the Committee.

SCRep. 859 Housing and Urban Development on Gov. Msg. Nos. 135, 196 and 240

Recommending that the Senate advise and consent to the nominations of the following:

THOMAS M. ITAGAKI to the Hawaii Community Development Authority, for a term ending December 31, 1986;

WILLIAM A. KNUTSON to the Hawaii Housing Authority, for a term ending December 31, 1983; and

EDDY N. NAGAO and LITO R. ALCANTRA to the Advisory Council for Housing and Construction Industry, for terms ending December 31, 1984, and December 31, 1986, respectively.

Signed by all members of the Committee.

SCRep. 860 Ecology, Environment and Recreation on Gov. Msg. Nos. 103, 104, 105, 106, 107, 177, 178, 179, 180 and 181

Recommending that the Senate advise and consent to the nominations of the following:

JACQUELINE PARNELL as Director of Environmental Quality Control, for a term ending December 1, 1986;

BERT AKIO KOBAYASHI and IRWIN K. KAWANO to the Aquatic Life and Wildlife Advisory Committee, City and County of Honolulu, for terms ending December 31, 1986;

BERT H. NAGAI to the Aquatic Life and Wildlife Advisory Committee, City and County of Honolulu, for a term ending December 31, 1986;

JAMES B. WATT to the Aquatic Life and Wildlife Advisory Committee, County of Hawaii, for a term ending December 31, 1986;

GEORGE C. WILKENS and ERIC M. TAKATA to the Aquatic Life and Wildlife Advisory Committee, County of Hawaii, for terms ending December 31, 1986;

SHERMAN N. THOMPSON to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for a term ending December 31, 1985;

HARUO NAKAGAWA to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for a term ending December 31, 1986;

JOHN BROOKS, II, to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for a term ending December 31, 1986;

BOB A. HEE and MICHAEL V. LAYOSA, SR., to the Aquatic Life and Wildlife Advisory Committee, County of Kauai, for terms ending December 31, 1986;

TRINIDAD A. RAVAL to the Aquatic Life and Wildlife Advisory Committee, County of Kauai, for a term ending December 31, 1986; and

TONNIE LAURA COLLEEN CASEY to the Animal Species Advisory Commission, for a term ending December 31, 1983.

Signed by all members of the Committee

SCRep. 861 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 64 to 71, S.R. Nos. 80 to 90 and Stand. Com. Rep. No. 862 on April 7, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 862 Federal Relations on Gov. Msg. Nos. 115, 156 and 187

Recommending that the Senate advise and consent to the nominations of the following:

ROBERT H. ISHIMOTO to the Civil Defense Advisory Council, for a term ending December 31, 1986;

ALEXIS T. LUM as Adjutant General, for a term ending December 1, 1986; and

ROLAND D. SAGUM to the Civil Defense Advisory Council, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 863 Consumer Protection and Commerce on Gov. Msg. No. 220

Recommending that the Senate advise and consent to the nomination of MARY G.F. BITTERMAN, Ph.D., as Director of Commerce and Consumer Affairs, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 864 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 72 and 73, S.R. No. 91 to 94 and Stand. Com. Rep. No. 863 on April 7, 1983; and

S.C.R. No. 74 to 78, S.R. Nos. 95 to 102 and Stand. Com. Rep. No. 865 on April 4, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee except Senator Young.

SCRep. 865 Transportation on Gov. Msg. Nos. 147 and 249

Recommending that the Senate advise and consent to the nominations of KENNETH I. CRAW and ERIC K. HONMA to the Commission on Transportation, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 866 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 79 to 84, S.R. Nos. 103 to 108 and Stand. Com. Rep. Nos. 867 to 870 on April 11, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 867 Consumer Protection and Commerce on Gov. Msg. Nos. 83, 163, 84, 164, 258, 85, 165, 166, 259, 86, 167, 168, 169 and 221

Recommending that the Senate advise and consent to the nominations of the following:

PHYLLIS N.T. SHEA to the Board of Public Accountancy, for a term ending December 31, 1986;

DAVID CHEEVER and HOWARD R. HANADA to the Board of Public Accountancy, for terms ending December 31, 1986;

MABEL C.S. CHANG to the Board of Acupuncture, for a term ending December 31, 1986;

MIKE M. HASHIMOTO to the Board of Acupuncture, for a term ending December 31, 1986;

VICTOR J. ELIZALDE to the Board of Barbers, for a term ending December 31, 1986;

ROBERT M. LEE to the Boxing Commission, for a term ending December 31, 1986;

GEORGE KAAHANUI, JR., to the Boxing Commission, for a term ending December 31, 1984;

HENRY JOSEPH ELLIS, JR., and MITSURU MITCHELL OUYE to the CATV Advisory Committee, for terms ending December 31, 1986;

NATHALIE DAVIS TUCKER, D.C., to the Board of Chiropractic Examiners, for a term ending December 31, 1986;

HARRY M. USHIJIMA and ALAN G. MEYERS, SR., to the Contractors License Board, for terms ending December 31, 1986;

WILBERT S. TOMA to the Contractors License Board, for a term ending December 31, 1986;

EDNA H. KANO to the Board of Cosmetology, for a term ending December 31, 1986;

MILTON W.Y. LUM, HELEN SMITH and LESLIE YAKA to the Credit Union Review Board, for terms ending December 31, 1986; and

GEORGE A. KANNA, D.D.S., and LAWRENCE K.W. TSEU, D.D.S., to the Board of Dental Examiners, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 868 Consumer Protection and Commerce on Gov. Msg. Nos. 87, 170, 222, 88, 223, 89, 90, 91, 224, 171, 172, 92, 260, 93, 261, 262, 173, 94 and 174

Recommending that the Senate advise and consent to the nominations of the following:

GEORGE K. HALL to the Board of Electricians and Plumbers, for a term ending December 31, 1986;

BERNARD T. MIURA and LEO POLO, JR., to the Board of Electricians and Plumbers, for terms ending December 31, 1986;

GLENN KENJI SHIBATA to the Elevator Mechanics Licensing Board, for a term ending December 31, 1986;

WALTER K. TAGAWA to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for a term ending December 31, 1986;

GEORGE S. YOSHIMURA and MARY ANN BARNARD to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for terms ending December 31, 1986;

ROBERT H. MCKAY to the Board of Hearing Aid Dealers and Fitters, for a term ending December 31, 1986;

EDSON HOO to the Board of Massage, for a term ending December 31, 1985;

SAMUEL HARAGUCHI, M.D., to the Board of Medical Examiners, for a term ending December 31, 1986;

MERNE C. FARRELL, HENRY T. OYAMA, M.D., and LIVINGSTON WONG, M.D., to the Board of Medical Examiners, for terms ending December 31, 1986;

JOSEPH WALSH HANLEY and SHOZO SATO to the Motor Vehicle Industry Licensing Board, for terms ending December 31, 1986;

RAYMOND S.Y. LUKE and VAN H. TAKEMOTO to the Motor Vehicle Repair Industry Board, for terms ending December 31, 1986;

CLAIRE R. ALFILER to the State Board of Nursing, for a term ending December 31, 1986;

ADELE D.S. MITCHELL, DOROTHY ANN PARK and VIOLET L. NAKAMURA to the State Board of Nursing, for terms ending December 31, 1985;

VIRGINIA S.K. KAM to the Board of Dispensing Opticians, for a term ending December 31, 1986;

LORRAINE SHIRAI to the Board of Dispensing Opticians, for a term ending December 31, 1984;

TED H. YAMADA to the Board of Dispensing Opticians, for a term ending

December 31, 1986;

ROD G. BJORDAHL, D.O., to the Board of Osteopathic Examiners, for a term ending December 31, 1986;

DEWEY W.K. TOM to the Board of Examiners in Optometry, for a term ending December 31, 1986;

JAMES E. DeMELLO to the Board of Pharmacy, for a term ending December 31, 1986; and

HAROLD K. KAWAGUCHI to the Board of Pharmacy, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 869 Consumer Protection and Commerce on Gov. Msg. Nos. 225, 95, 175, 96, 226, 97, 98, 263, 99 and 176

Recommending that the Senate advise and consent to the nominations of the following:

ROLAND M. LOGAN to the Board of Pilot Commissioners, for a term ending December 31, 1986;

CRAIG ROBINSON to the Board of Certification for Practicing Psychologists, for a term ending December 31, 1986;

JANE HARDY JONES, Ed.D., to the Board of Certification for Practicing Psychologists, for a term ending December 31, 1986;

JOEL ALBERT DUNSTON to the Board of Certification for Practicing Psychologists, for a term ending December 31, 1985;

FAITH OKIHIRO LEBB to the Board of Certification for Practicing Psychologists, for a term ending December 31, 1986;

GEORGE A. MORRIS to the Real Estate Commission, for a term ending December 31, 1986;

YUKIO TAKEYA to the Real Estate Commission, for a term ending December 31, 1985;

DENNIS T. SEKINE to the Board of Speech Pathology and Audiology, for a term ending December 31, 1985;

SANDRA KAY HARADA to the Board of Speech Pathology and Audiology, for a term ending December 31, 1985;

JOHN B. BELFRAGE, D.V.M., to the Board of Veterinary Examiners, for a term ending December 31, 1985; and

ALLEN Y. MIYAHARA, D.V.M., and DAVID BARD MACKAY, D.V.M., to the Board of Veterinary Examiners, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 870 Transportation on S.C.R. No. 41

The purpose of this concurrent resolution is to request the department of transportation to undertake a feasibility study investigating several aspects regarding the transportation of diversified Hawaii agricultural products by air.

Reliable and efficient air transportation of perishable agricultural products is vital for the development and maintenance of a viable diversified agriculture industry in Hawaii. Your Committee finds that cargo space to airlift such products has not been sufficient nor reliable in the past. This has deterred the expansion of Hawaii products to the mainland and abroad.

The department of transportation has the responsibility to facilitate the rapid and economical movement of goods and people into, within, and out of the state. Your

Committee believes the department should study all the possible alternatives which would enable the efficient and feasible movement of perishable agricultural products.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 41 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 871 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Gov. Msg. Nos. 277 to 286, S.C.R. Nos. 85 to 99, S.R. Nos. 109 to 118 and Stand. Com. Rep. Nos. 872 to 874 on April 12, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 872 Health on H.B. No. 1380

The purpose of this bill is to permit the merchandising of unpackaged processed foods by means of self-service displays.

There are no existing statutes regulating this widespread business practice, and as a result there has been conflict and confusion between the Department of Health and businesses that sell unpackaged processed foods such as dried beans, nuts, seeds, fruit, snack items, grains and coffee beans. Recent attempts by the Department to halt this practice have met with strong opposition from the food industry and consumers.

This bill allows wholesalers to display and sell unpackaged processed food in bulk, if certain conditions are satisfied, and is similar to California legislation passed in 1978. According to the Hawaii Food Industry Association (HFIA), no health problems have been reported in California which could be attributed to the legislation. Additionally, the HFIA testified that this bill would allow businesses to cut costs through bulk food marketing which would ultimately reduce prices to consumers.

Your Committee finds that this bill provides reasonable safeguards that protect the public health and will resolve conflicts currently plaguing the industry.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1380 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 873 (Majority) Health on H.B. No. 237

The purpose of this bill is to strengthen the Department of Health's capability to control the potential spread of tuberculosis.

Presently the Department is hampered in its efforts to obtain medical information and x-rays because it must first be granted authorization by the patients, who are often hard to find, and because relevant information is not always reported by physicians in a timely manner.

Your Committee finds that in order to increase its ability to evaluate and monitor patients and control the spread of tuberculosis, the Department must have the authority to obtain all the records and x-rays it needs without delay.

This bill authorizes the Department of Health to requisition any medical record or x-ray of anyone suspected of having tuberculosis, and requires all laboratories to submit reports regarding tuberculosis infected persons to the Department in writing.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 237 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Cayetano did not concur.

SCRep. 874 Health on H.B. No. 240

The purpose of this bill is to authorize the Department of Health to designate the number of blood samples and also when the blood samples are to be taken from pregnant women for syphilis testing.

The present statute requires only a single sample of blood to be taken at the first visit or within fourteen days thereafter.

Testimony by the Department of Health indicates that in the general opinion of the medical profession, the fetus is protected for the first sixteen weeks of pregnancy, after which it is vulnerable to infection. Syphilis detected and treated before the sixteenth week will prevent infection and damage to the fetus; however, most women do not seek prenatal care until after the sixteenth week, and if they subsequently contract the disease the fetus will be damaged.

Your Committee finds that the Department should be able to require an additional test during the woman's third trimester of pregnancy in order to safeguard the fetus against syphilis contracted late in pregnancy.

This bill allows the Department of Health to authorize as many tests at whatever times in the pregnancy it deems appropriate to safeguard the mother and the fetus against syphilis.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 240 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 875 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

S.C.R. Nos. 100 to 118 and S.R. Nos. 119 to 146 on April 12, 1983; and

Stand. Com. Rep. Nos. 876 to 878 on April 13, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 876 Higher Education on Gov. Msg. Nos. 132 and 133

Recommending that the Senate advise and consent to the nominations of the following:

WALTER R. STEIGER to the Board of Regents, University of Hawaii, for a term ending December 31, 1984;

STANLEY MUKAI and STEPHEN BESS to the Board of Regents, University of Hawaii, for terms ending December 31, 1986; and

J.W.A. BUYERS to the Board of Directors, Research Corporation, University of Hawaii, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 877 Youth and Elderly Affairs on S.C.R. No. 39

The purposes of this Concurrent Resolution are to develop a policy and provide guidelines for the development of a state Long Term Care Plan for the elderly and to designate the responsible state agencies.

Currently, the State supports a wide range of long term care services for Hawaii's elderly, but lacks a comprehensive master plan to provide direction in establishing programs, setting priorities, and allocating resources.

The Long Term Care Planning Group (LTCPG), whose members were appointed by the governor and represent key public and private agencies, community organizations and consumer-oriented persons, after careful consideration, has developed a

set of policy guidelines which your Committee finds to be appropriate for the task at hand.

Your Committee has received favorable testimony from various organizations including the Departments of Health and Social Services and Housing and the Executive Office on Aging.

Your Committee has amended the Concurrent Resolution to include the contributions of the Long Term Care Channeling Demonstration project, which your Committee finds are important for the long term care needs of the disabled elderly population.

Your Committee has further amended the Concurrent Resolution to make technical changes that have no substantive effect.

Your Committee on Youth and Elderly Affairs concurs with the intent and purpose of S.C.R. No. 39, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 39, S.D. 1.

Signed by all members of the Committee.

SCRep. 878 Youth and Elderly Affairs on Gov. Msg. Nos. 148, 149, 150, 254 and 269

Recommending that the Senate advise and consent to the nominations of the following:

BRUCE FUJIMOTO to the Advisory Council for Children and Youth, for a term ending December 31, 1983;

VINCE G. BAGOYO, JR., to the Advisory Council for Children and Youth, for a term ending December 31, 1986;

CONRAD HOKAMA to the Advisory Council for Children and Youth, for a term ending December 31, 1986;

ISADORA TAI and ERASMUS PATACSIL to the Progressive Neighborhoods Task Force, for terms ending December 31, 1986;

BETTY ONA to the Advisory Council for Children and Youth, for a term ending December 31, 1984;

SAMUEL J. LUNA to the Advisory Council for Children and Youth, for a term ending December 31, 1986;

LEONARD E. MASON and SHIZUKO MUKAIDA to the Policy Advisory Board for Elderly Affairs, for terms ending December 31, 1983;

COLETTE V. BROWNE to the Policy Advisory Board for Elderly Affairs, for a term ending December 31, 1984; and

SAMUEL S. LUKE, FELICIDAD D. HABON, TUALA SEVAAETASI, HELEN WIEGERT, EDWARD T. YAMADA, NORA M. KUROSU AND YOSHIKI FUJITANI to the Policy Advisory Board for Elderly Affairs, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 879 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 880 to 896 on April 14, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 880 Consumer Protection and Commerce on H.B. No. 431

The purpose of this bill is to empower the Commissioner of Securities to adopt rules which would permit the exemption of private or semi-public securities

offerings.

Your Committee finds that the current exemption was modified substantially by the Securities and Exchange Commission which created uncertainty that required an Attorney General's opinion. Your Committee finds that in order to adequately keep up with the rapid changes in the securities industry and related areas, and to avoid further legal confusion, it would be beneficial to be able to conform Hawaii's laws through rule-making procedures rather than legislative means.

Your Committee received favorable testimony from various organizations including the Department of Commerce and Consumer Affairs and the Hawaii State Bar Association.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 431, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 881 Government Operations and County Relations on S.R. No. 8

The purpose of this resolution is to require State and County agencies that issue public contracts to inform the contractors of the benefits of substituting retainage requirements with general obligation bonds of the State or its political subdivisions.

Your Committee finds that many contractors who enter into public contracts are not aware of the provisions of Section 103-32.2, Hawaii Revised Statutes, which allows contractors to substitute general obligation bonds of the State or its political subdivisions for sums retained to insure proper performance by contractors. Your Committee further finds that contractors would benefit by substituting general obligation bonds for retainage and should be notified by government agencies entering into public contracts of the benefits available under Section 103-32.2, Hawaii Revised Statutes.

Your Committee has amended this resolution by adding clarifying language to the fifth and sixth "Whereas" clauses specifying that the general obligation bonds which may be substituted for retainage are general obligation bonds of the State or its political subdivisions. Your Committee has further amended the resolution by making technical changes which have no substantive effect.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.R. No. 8, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 8, S.D. 1.

Signed by all members of the Committee.

SCRep. 882 Government Operations and County Relations on S.C.R. No. 18

The purpose of this concurrent resolution is to require State and County agencies that issue public contracts to inform contractors of the benefits of substituting retainage requirements with general obligation bonds of the State or its political subdivisions.

Your Committee finds that many contractors who enter into public contracts are not aware of the provisions of Section 103-32.2, Hawaii Revised Statutes, which allows contractors to substitute general obligation bonds of the State or its political subdivisions for sums retained to insure proper performance by contractors. Your Committee further finds that contractors would benefit by substituting general obligation bonds for retainage and should be notified by government agencies entering into public contracts of the benefits available under Section 103-32.2, Hawaii Revised Statutes.

Your Committee has amended this concurrent resolution by adding clarifying language to the fifth and sixth "Whereas" clauses specifying that the general obligation bonds which may be substituted for retainage are general obligation bonds of the State or its political subdivisions. Your Committee has further amended the concurrent resolution by making technical changes which have no substantive effect.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.C.R. No. 18, as amended herein, and recommends its

adoption in the form attached hereto as S.C.R. No. 18, S.D. 1.

Signed by all members of the Committee.

SCRep. 883 Higher Education on S.C.R. No. 92

The purpose of this Concurrent Resolution is to request the Legislative Auditor to conduct a comprehensive study of Hawaii's participation in the Western Interstate Commission on Higher Education (WICHE) program.

Your Committee finds that an objective study and assessment of Hawaii's participation in the WICHE program is necessary and appropriate. Since 1959 when the Legislature first adopted the Western Regional Education Compact (Act 253, SLH 1959), the University of Hawaii has grown rapidly into a major research institution with greatly expanded opportunities in postsecondary education.

Whereas the University of Hawaii system is currently conducting an evaluation of its progress in consideration of both the State's overall economic outlook and the need to ensure the perpetuation of quality and diversity in the State supported higher education program, the Legislature recognizes the need for a similar evaluation of the Hawaii program of the Western Interstate Commission on Higher Education.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 92 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 884 Higher Education on S.R. No. 93

The purpose of this resolution is to request the University of Hawaii and the Board of Regents to conduct a self-audit on its current student registration, class registration, and course scheduling systems and to report its findings and recommendations to the 1984 Legislature.

Your Committee finds that differing systems of registration and course scheduling exist throughout the University system due in large part to a lack of clear systemwide policies. If this condition is allowed to continue, unnecessary inconveniences to students will also continue along with deficiencies in academic, budgetary and general administrative planning.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 93 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 885 Higher Education on S.R. No. 31

The purpose of this resolution is to request the University of Hawaii to conduct a study on its experience in integrating the administrative, physical and educational components of Hawaii Community College and the University of Hawaii at Hilo.

Your Committee finds that the current organization of the University of Hawaii at Hilo, which includes both two and four year degree granting colleges, under a single educational entity is a unique concept in postsecondary education. In view of this, and the University's thirteen year experience with this concept, your Committee feels that similar integrations of University campuses may be a viable alternative in meeting the ever increasing costs and demands for additional services and facilities for higher education.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 31 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 886 Higher Education on Gov. Msg. No. 239

Recommending that the Senate advise and consent to the nominations to the Board of Regents, University of Hawaii, of the following:

DANIEL M. ISHII, for a term ending December 31, 1984; and

GLADYS AINO A BRANDT, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 887 Human Resources on Gov. Msg. No. 197

Recommending that the Senate advise and consent to the nomination of DENNIS G. AGUIAR to the Civil Service Commission, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 888 Human Resources on Gov. Msg. No. 198

Recommending that the Senate advise and consent to the nominations to the Advisory Commission on Manpower and Full Employment of the following:

TOM FOYE, for a term ending June 30, 1984;

JOSEPH JAY FURFARO, for a term ending June 30, 1985; and

WILLIAM Y. YAMADA, WILLIAM F. MURRAY, Ed.D., BETTY S.J. CHUNG and ROWENA L. BLAISDELL, for terms ending June 30, 1986.

Signed by all members of the Committee.

SCRep. 889 Human Resources on Gov. Msg. No. 200

Recommending that the Senate advise and consent to the nominations to the Board of Vocational Rehabilitation of the following:

SALLY ANN PRICE, for a term ending December 31, 1985; and

RICHARD Y. SUEHIRO and BOBBY G. SMITH, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 890 Human Resources on Gov. Msg. No. 241

Recommending that the Senate advise and consent to the nomination of JOSHUA C. AGSALUD as Director of Labor and Industrial Relations, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 891 Human Resources on Gov. Msg. No. 242

Recommending that the Senate advise and consent to the nomination of FRANKLIN Y.K. SUNN as Director of Social Services, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 892 Human Resources on Gov. Msg. No. 243

Recommending that the Senate advise and consent to the nomination of PETER T. SUEMORI to the Board of Trustees, Employees' Retirement System, for a term ending January 1, 1989.

Signed by all members of the Committee.

SCRep. 893 Human Resources on Gov. Msg. No. 244

Recommending that the Senate advise and consent to the nominations of JUSTIN WONG and J.N. MUSTO to the Board of Trustees, Hawaii Public Employees Health Fund, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 894 Human Resources on Gov. Msg. No. 268

Recommending that the Senate advise and consent to the nominations to the Board of Trustees for Deferred Compensation Plan of the following:

ROBERT E. COOLING, for a term ending December 31, 1986; and

VALRI LEI KUNIMOTO, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 895 Higher Education on S.R. No. 110

The purpose of this Resolution is to request the Legislative Auditor to conduct a comprehensive study of Hawaii's participation in the Western Interstate Commission on Higher Education (WICHE) program.

Your Committee finds that an objective study and assessment of Hawaii's participation in the WICHE program is necessary and appropriate. Since 1959 when the Legislature first adopted the Western Regional Education Compact (Act 253, SLH 1959), the University of Hawaii has grown rapidly into a major research institution with greatly expanded opportunities in postsecondary education.

Whereas the University of Hawaii system is currently conducting an evaluation of its progress in consideration of both the State's overall economic outlook and the need to ensure the perpetuation of quality and diversity in the State supported higher education program, the Legislature recognizes the need for a similar evaluation of the Hawaii program of the Western Interstate Commission on Higher Education.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 110 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 896 Agriculture on Gov. Msg. No. 219

Recommending that the Senate advise and consent to the nomination of JACK K. SUWA as Chairman, Board of Agriculture, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 897 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Stand. Com. Rep. Nos. 898 to 922 on April 15, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 898 Consumer Protection and Commerce on H.B. No. 166

The purpose of this bill is to increase from one year to fifteen months the length of time in which proofs of losses for accident or sickness claims must be submitted to an insurer when it is not reasonably possible to give proof to the insurer within the time otherwise required.

Currently the law provides for a one year period in which to submit proof of losses when it is not reasonably possible to give such proof within the normal ninety-day claim period.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of the bill stating it would provide claimants with a longer period of time within which to provide proofs of their losses without substantially affecting an insurer's rights of subrogation against third parties who may have caused the harm.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 166, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 899 Consumer Protection and Commerce on H.B. No. 277

The purpose of this bill is to clarify the responsibilities of a licensee who receives and collects insurance premiums from policyholders on behalf of insurers.

Currently, an insurance agent is responsible as a trustee to report and keep an account of all premiums received. However, an agent may commingle the premiums with the agent's own personal funds upon the written consent of the principal. The law is unclear as to whether the agent is able to make investments which do not directly accrue to the benefit of the principal.

Your Committee received testimony from the Insurance Division of the Department of Commerce and Consumer Affairs in support of the bill which will clarify the rights and responsibilities of an agent upon receipt or collection of premiums. Further, under this measure, the agent must keep the fiduciary funds on deposit in a federally insured Hawaii bank or savings and loan association account and is not allowed to commingle those funds with the agent's own funds.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 277 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 900 Consumer Protection and Commerce on H.B. No. 288

The purpose of this bill is to delete invalid and unconstitutional requirements, remove outdated procedures, and impose a more realistic application deadline for persons seeking a chiropractic license.

Currently, the law provides for a thirty-day deadline for the filing of applications for examination. Your Committee finds that a filing deadline of sixty days prior to the date of examination is required to adequately process applications and to secure an examination site.

The bill deletes requirements of citizenship and residency which the Board of Chiropractic Examiners has not enforced for years because it was held unconstitutional. Upon the recommendation of the Legislative Auditor, the requirements of good moral character and proof of completion of high school are also deleted.

This bill also eliminates the election of a secretary, as those functions are now assumed by the Board's executive secretary and deletes the requirement of submitting an annual report to the Governor. The Board has in the past and is always prepared to provide the Governor with any information necessary for review.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 288 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 901 Consumer Protection and Commerce on H.B. No. 1201

The purpose of this bill is to amend Section 408-2.1, Hawaii Revised Statutes, to allow individuals to use the words "finance", "financial", and words of similar import as part of their academic or professional designation.

Currently, the use of these terms is reserved exclusively for firms and other entities engaged in the industrial loan business.

Your Committee received favorable testimony from insurance practitioners and other professionals who have received academic training and degrees in personal financial planning, financial counseling and similar fields, who are prevented from designating their specialty because of current statutory provisions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1201, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 902 (Majority) Transportation on H.B. No. 601

The purpose of this bill is to set minimum State standards for sun screening devices used, installed, or mounted on or adhering or affixed to the glazing material of any motor vehicle within the State and to set penalties for violations of these standards.

Over the past several years sun screening devices have become immensely popular throughout the state. Your Committee finds that sun screening devices used in conjunction with glazing materials are beneficial in the following ways: (1) They protect the driver's eyes from excessive glare, thus increasing driver safety; (2) They protect persons with cancer or cancer susceptible skin from the sun's harmful ultraviolet rays; (3) They decrease the usage of air conditioning, thus conserving energy; and (4) They increase the life of the upholstery of the motor vehicle and other light sensitive personal property kept in the vehicle.

Your Committee believes that the requirement that the front windshield of the motor vehicle must conform to the FMVSS 205 standard for light transmittance to ensure driver visibility of road and traffic conditions before him, and to help enable pedestrians, bicyclists, and drivers of other motor vehicles to make "eye contact" with the operator of a motor vehicle with sun screening devices. Your Committee further believes that this front windshield standard and the standards adopted by your Committee for the other windows of a motor vehicle will allow a police officer or other persons approaching a vehicle, even at night, to be able to observe the movements of the occupants of the vehicle.

The major issue confronted by your Committee with respect to H.B. No. 601, H.D. 1, is that of federal preemption. With respect to State regulation of "user", that is, owners and operators of motor vehicles, there appears to be no preemption issue and the State may regulate users of motor vehicles with sun screening devices. The preemption issue arises with respect to persons who apply sun screening devices, including tinting materials, commercially. Section 108(a)(2)(A) of the National Traffic and Motor Vehicle Safety Act 15 U.S.C. §1397(a)(2)(A), provides in part that "no manufacturer, distributor, dealer or motor vehicle repair business shall knowingly render inoperative, in whole or in part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable federal motor vehicle safety standard...".

Your Committee is concerned that the Federal Motor Vehicle Safety law is subject to interpretation, since the only substantial interpretation is that of "an opinion" of the National Highway Traffic Safety Administration that the term "dealer" includes persons who commercially apply sun screening devices to motor vehicle windows. Your Committee believes that to alleviate any discrepancies as to whether commercial applicators are covered by federal standards or not, the application of sun screening devices by these commercial applicators should be regulated by the State in order to assure the safety of its citizenry.

Your Committee requests that the Department of Transportation promulgate rules and regulations to utilize a visual comparative check for periodical motor vehicle inspections (PMVI). This will prevent safety check stations from purchasing expensive light measuring devices.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 601, 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.
Senator George did not concur.

SCRep. 903 Transportation on H.B. No. 334

The primary purpose of this bill is to permit the department of transportation to decrease the minimum period for which the department must recognize the validity of numbers awarded to vessels by the Coast Guard or by another state under a Coast Guard approved numbering system. The bill also modernizes language relating to persons empowered to question and detain suspected persons aboard vessels by changing reference from "policeman" to "enforcement officer".

Your Committee concurs with the testimony received from the department of transportation supporting this bill which brings Section 267-10, Hawaii Revised Statutes, into conformance with federal requirements by decreasing the minimum period from ninety to sixty days and also changes reference from "policeman" to "enforcement officer" in Section 267B-1 and 267B-3, Hawaii Revised Statutes.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 334, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 904 Agriculture on S.C.R. No. 17

The purpose of this concurrent resolution is to request that the Department of Agriculture and the Department of Land and Natural Resources review the restrictions on permissible activities on agriculturally zoned public lands and implement changes in order to make public land leases available for beekeeping activities.

Your Committee finds that the beekeeping industry in Hawaii is a growing industry that is beneficial to this State socially, environmentally and economically. Your Committee feels that the current restrictions on areas where bees may be raised deserves reconsideration in order to encourage the development of a potentially viable new agricultural industry.

Your Committee has amended the Concurrent Resolution by adding the words "and conservational" to paragraph five of the resolution in order to accurately reflect that beekeeping is presently permitted on conservation lands, by requesting that the Department of Land and Natural Resources review the liability question resulting from approval of beekeeping activities, and by making minor language changes which have no substantive effect.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 17, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 17, S.D. 1.

Signed by all members of the Committee.

SCRep. 905 Agriculture on H.B. No. 44

The purpose of this bill is to provide for the recognition of agricultural planning and development among the general duties of the Department of Agriculture.

Section 141-1, Hawaii Revised Statutes, which establishes the general duties of the Department of Agriculture, does not specifically mention agricultural planning and development as one of the duties of the Department. However, planning and development functions have been an integral part of the Department of Agriculture since five positions were established for that purpose by Act 218, Part III, Section 8, Session Laws of Hawaii 1973. For nearly ten years the Department has been performing planning and development duties through its Planning and Development Office without statutory recognition and without civil service status for the employees of that office.

This bill specifically includes agricultural planning and development as one of the functions of the Department of Agriculture and defines the role, functions, and duties of the employees of the Planning and Development Office.

Your Committee finds that the best interests of the State will be served by clearly defining the role of the agricultural planning and development staff of the Department of Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 44, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 906 Ways and Means on Gov. Msg. No. 250

Recommending that the Senate advise and consent to the nomination of JENSEN S.L. HEE as Director of Finance, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 907 Ways and Means on Gov. Msg. No. 251

Recommending that the Senate advise and consent to the nomination of GEORGE

FREITAS as Director of Taxation, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 908 Ways and Means on Gov. Msg. No. 252

Recommending that the Senate advise and consent to the nomination of HIDEO MURAKAMI as Comptroller, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 909 Ways and Means on H.B. No. 328

The purpose of this Act is to amend section 237-40(d), Hawaii Revised Statutes, to allow a taxpayer to claim a credit or refund of general excise taxes within three years after the due date of the annual return instead of within three years from filing the annual return or if an annual return was not filed, within three years after payment of the tax or within three years of the date prescribed for the filing of the annual return, whichever is later.

Your Committee has heard companion bill S.B. No. 211.

Currently the statutory period of limitations for assessment of the general excise tax is within three years after the annual return was filed or within three years after the due date prescribed for the filing, whichever is later; a result of Act 9, Session Laws of Hawaii 1971 which amended section 237-40. However, the limitation period for refund was untouched causing a discrepancy between the general excise tax assessments and refunds.

This Act would conform the statutory period of limitations for refunds with that of assessment section 237-40(a), Hawaii Revised Statutes, and the limitation period of assessment provided for in section 235-111(a), Hawaii Revised Statutes.

Your Committee notes that the taxpayer who files the annual return earlier than the due date has a shorter period in which to claim for a credit or refund than that applied to assessment. Under present law, an assessment could be asserted against a taxpayer who filed early after the limitation period for refunds expired and the taxpayer could not offset such assessment with any overpayment issued because of the shorter period of limitation for refunds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 328, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 910 Ways and Means on H.B. No. 546

The purpose of this bill is to guarantee that patient employees at Hansen's disease facilities be paid at least the statutory minimum wage.

Currently, patient employees are paid fifty-three percent to seventy and one-half percent of the statutory minimum wage, with intervals of three and one-half percent separating each of six pay steps. This bill deletes the obsolete pay grades and establishes the statutory minimum wage as the base pay for patient employees. The bill also requires the consent of a patient and the patient's attending physician for employment by the Department of Health.

Your Committee heard testimony on the companion bill, S.B. No. 360. Testimony by the Department of Health explained that the intent of the Kalaupapa program is similar to the National Hansen's Disease Center at Carville, Louisiana, where patient employees receive the minimum wage as a therapeutic measure to promote the care, recovery, or rehabilitation of these patients.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 546, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 911 Ways and Means on H.B. No. 594

The purpose of this bill is to permit investment by the Employees' Retirement System in second mortgage loans which are intended to be used to acquire the leaseholder's fee simple interest in improved real estate.

Your Committee recognizes the need by many employees for financing in this area and recognizes this as a good investment for the system. Thus, it would be beneficial for all parties to pass this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 594 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 912 Ways and Means on H.B. No. 330

The purpose of this bill is to clearly place authority for the planning, design, and construction of airport facilities with the department of transportation.

In the past, authority for these purposes has rested with both the department of transportation and the department of accounting and general services. In practice, however, the department of transportation has taken responsibility for this area.

Your Committee recognizes that the department of transportation has developed an expertise in this area and is the logical authority for it.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 330 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 913 Ways and Means on H.B. No. 242

Your Committee heard companion bill S.B. No. 126.

The purpose of this bill is to exempt credit card payments for state hospital charges from section 40-35, Hawaii Revised Statutes.

Under section 40-35, Hawaii Revised Statutes, money paid to the State under protest is retained by the State pending resolution of the dispute. Federal regulations, however, allow credit card holders the right to withhold payments to credit card companies in the event of a dispute. Because of the contradictory provisions, credit card companies are concerned that they will incur financial losses in the case of a dispute between the State and credit card holders. This situation has resulted in a barrier preventing the use of credit cards to pay state hospital charges. This bill removes the barrier.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 242, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 914 Ways and Means on H.B. No. 1285

The purpose of this bill is to permit a sculpture to be permanently displayed at the Kauai State Office Building.

This bill would enable the State Foundation on Culture and the Arts to commission a permanent work of art for the Kauai State Office Building in Kauai's civic center.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1285, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 915 Ways and Means on H.B. No. 882

The purpose of this bill is to conform the Hawaii Income Tax Law to recent amendments made to the Internal Revenue Code by the Tax Equity and Fiscal Responsibility Act of 1982, the Subchapter S Revision Act of 1982, and various

other public laws affecting the Code.

Your Committee heard companion bill S.B. No. 521.

In testimony before your Committee, the department of taxation explained the details of the amendments contained in the bill. Among the significant changes to the Internal Revenue Code that are incorporated in this bill to conform Hawaii's income tax law are:

- (1) The taxation of the early withdrawal of investment amounts from deferred annuity contracts;
- (2) The allowance of a deduction for casualty and theft losses only to the extent that the total loss, after the \$100 deduction, exceeds ten percent of the taxpayer's adjusted gross income;
- (3) The reduction of the accelerated cost recovery system available for property subject to safe harbor leasing by restricting the qualified base property to forty-five percent of the cost to the lessee, reducing the maximum lease term, and limiting the amount by which the lessor may reduce its tax liability;
- (4) The requirement that corporations capitalize on construction period interest and taxes for nonresidential real property;
- (5) The allowance of a minimum annual contribution for retirement annuities for church employees with adjusted gross incomes of \$17,000 or less of the lesser of \$3,000 or includable compensation;
- (6) For individual retirement accounts, the requirement that the entire remaining interest of a trust be distributed within five years after the death of the owner or surviving spouse and the prohibition of a rollover of an inherited account, unless to a surviving spouse, although partial rollover of an eligible plan is permitted;
- (7) The adoption of special rules for credit for interest and dividend withholding as to beneficiaries of an estate or trust;
- (8) The repeal of the special rules for stock bonus and profit-sharing plans and the special limits on deductions and contributions on behalf of a shareholder-employee or a subchapter S corporation for tax years beginning after December 31, 1983; and
- (9) The requirement that annual withholding statements be provided to an employee terminated before the end of the calendar year within thirty days after a written request has been received from the employee if such thirty-day period ends before January 31.

The bill also contains housekeeping and conformity changes.

Your Committee finds that this bill should produce an increase in revenues for the State.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 882 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 916 Ways and Means on H.B. No. 244

The purpose of this bill is to eliminate the obsolete fee schedule and residency requirement for licensing undertakers, embalmers, and funeral directors.

The current fee schedule for examinations, license renewals, penalties, and apprenticeship certifications in the above professions has not been revised since its enactment in 1937.

This bill allows the Department of Health to restructure the fees for undertakers, embalmers, and funeral directors through the administrative rule-making process and removes the one-year residency requirement for the embalmer's license.

Your Committee finds that there is a need to restructure the fee schedule to

reflect the escalating costs of health administration in today's economy. Further, your Committee is informed that a Deputy Attorney General's written opinion clearly states that the one-year residency requirement for obtaining an embalmer's license is unconstitutional.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 244, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 917 Ways and Means on H.B. No. 1262

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds for a total amount not to exceed \$10 million for the construction of an ethanol plant by Hawaiian Development Company, a subsidiary of the Hawaii Sugar Planters' Association.

Your Committee finds that ethanol is an indigenous source of liquid fuel that can reduce the State's dependence on imported petroleum. Ethanol can be produced from molasses, a by-product of sugarcane that has recently decreased in price, and can be used as an additive to gasoline. The sugar industry produces approximately 330,000 tons of molasses per year that can be converted into 23 million gallons of ethanol, or eight percent of the State's gasoline supply.

Your Committee has previously heard an identical measure, S.B. No. 755, and received testimony from both the department of planning and economic development and the Hawaii Sugar Planters' Association in support of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1262, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 918 Hawaiian Programs on Gov. Msg. No. 231

Recommending that the Senate advise and consent to the nomination of GEORGIANA PADEKEN as Chairperson, Hawaiian Homes Commission, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 919 Ecology, Environment and Recreation on H.B. No. 251

The purpose of this bill is to authorize the Department of Land and Natural Resources to permit the taking and collecting of game birds and mammals for scientific or educational purposes and to control such animals which are destructive to crops or each other or which constitute a nuisance or a hazard to human health.

Current statute authorizes the taking and collecting of only wild birds for scientific and educational purposes. However, according to testimony, numerous requests have been received each year from scientists and educators who wish to collect game birds as well as mammals for study and classroom use. Moreover, game birds and mammals have been implicated in crop damage complaints which involve significant financial loss to agricultural industries and the control of these animals in local situations is essential.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 251, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 920 Ecology, Environment and Recreation on H.B. No. 837

The purpose of this bill is to define "bullpen" traps and to authorize the Department of Land and Natural Resources to adopt rules relating to the requirements for escape openings or devices on any type of trap.

A "bullpen" trap is a fishing device which consists of a group of nets set together in a pattern with wings which leads fish into a receptacle. Bullpen traps

are constructed to block the passage of fish or to guide them into an enclosure or area from which they can be caught easily. They are generally large structures which may entrap all types of sizes of aquatic life such as crustaceans, finfish, and turtles. Due to their indiscriminate efficiency, their use is prohibited or carefully regulated in many areas of the United States and in many foreign countries. Your Committee finds that regulation of such traps is necessary to protect our aquatic resources.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 837, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 921 Ecology, Environment and Recreation on S.R. No. 42

The purpose of this resolution is to request the Department of Land and Natural Resources to develop specific legislation regulating mariculture and other marine operations while protecting the public's use and enjoyment of the reefs.

Your Committee finds that Article XI, section 6, of the Constitution of the State of Hawaii mandates the Legislature to establish guidelines regulating mariculture operations that protect the public's use and enjoyment of the reefs. In order to fulfill this constitutional mandate, the Legislature has requested recommendations from state departments concerning the nature and scope of substantive regulations necessary. The responses to these requests, however, have not been sufficient. A comprehensive study entitled Ocean Leasing for Hawaii, completed in 1981, merely proposed enabling legislation for the leasing of ocean waters. The study did not address the Legislature's predominant concern about substantive regulatory safeguards to protect public use and enjoyment of the reefs.

Your Committee is concerned that economic considerations should not override public rights to use the coastal area and ocean waters of the State. Moreover, your Committee firmly believes that determination of whether individual applications to lease ocean areas are in the public interest should not be left to administrative discretion but that specific statutory safeguards and legislative oversight are necessary, and indeed, constitutionally required.

Your Committee has amended the resolution by inserting a new "whereas" clause to emphasize that the request made by this resolution is not the first of this nature. Your Committee has also amended the resolution by requiring the Department of Land and Natural Resources to develop the legislation requested "using the Department's own resources" as the Legislature does not have additional funds to appropriate for such a report, nor does it believe additional funds are necessary. Other technical, nonsubstantive amendments were made to the resolution.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.R. No. 42, as amended herein, and recommends that it be adopted in the form attached hereto as S.R. No. 42, S.D. 1.

Signed by all members of the Committee.

SCRep. 922 Ecology, Environment and Recreation on S.C.R. No. 36

The purpose of this Concurrent Resolution is to specify that the Legislature concurs with the amendment of the Governor's Executive Order No. 1446 regarding the Waikiki War Memorial Park and Natatorium by eliminating the words "and Natatorium" so that it will simply read "Waikiki War Memorial Park".

Your Committee finds that the Natatorium has deteriorated to the point where it is now a hazard to the health, safety and welfare of the general public and constitutes a blight in the Waikiki War Memorial Park and Natatorium area. Renovation and improvement of the area may best be accomplished by doing away with the Natatorium and deleting the words "and Natatorium" in Executive Order No. 1446 will be a logical first step in order that the State may proceed with the planning and development of this area as a War Memorial Park.

Your Committee has amended this Concurrent Resolution by deleting the reference to demolition of the Natatorium structure and by making a minor language change which has no substantive effect.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 36, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 36, S.D. 1.

Signed by all members of the Committee.

SCRep. 923 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. Nos. 1 to 5, S.C.R. No. 119, S.R. No. 147 and Stand. Com. Rep. Nos. 924 to 928.

Signed by all members of the Committee.

SCRep. 924 Higher Education on S.R. No. 32

The purpose of this resolution is to request the University of Hawaii, in cooperation with the Department of Education, to examine the Hawaiian Education Program in order to assess the role of the University in providing adequate educational opportunities at the postsecondary level for students to pursue further studies in this area.

Your Committee finds that the continuity of the Hawaiian Education Program beyond the secondary school level is critical to the preservation and perpetuation of Hawaiian culture, history and language. A strong program of course offerings in Hawaiian Education at the postsecondary level would also serve to complement the University's efforts in establishing and promoting a Center for Asian and Pacific Studies.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 32 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 925 Government Operations and County Relations on S.C.R. No. 50

The purpose of this Concurrent Resolution is to request the Small Business Advisory Committee, appointed by the Governor, to determine when it would be economically beneficial for the State to contract public services with the private sector.

Currently, the government and its various departments have the option to contract with the private sector or to provide goods and services on their own, in the areas of retailing, printing, manufacturing, education, travel, employment services, communications, wholesaling, research and development, and a variety of other areas.

Your Committee finds that previous studies indicated that in certain instances, contracting with the private sector was more cost-effective and efficient. Testimony received from the National Federation of Independent Business and the Small Business Council of the Chamber of Commerce of Hawaii recommends contracting services to private industry which offers a flexible work force for the government, and broadens the State's tax base through collection of licensing fees and general excise and income taxes.

Your Committee further finds that a study to identify areas in which private sector contracting could increase efficiency and reduce cost, without jeopardizing the employment of any civil servant would greatly benefit the State.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.C.R. No. 50 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 926 Government Operations and County Relations on S.R. No. 63

The purpose of this resolution is to request the Small Business Advisory Committee, appointed by the Governor, to determine when it would be economically beneficial for the State to contract public services with the private sector.

Currently, the government and its various departments have the option to contract with the private sector or to provide goods and services on their own, in the areas of retailing, printing, manufacturing, education, travel, employment services, communications, wholesaling, research and development, and a variety of other areas.

Your Committee finds that previous studies indicated that in certain instances, contracting with the private sector was more cost-effective and efficient. Testimony received from the National Federation of Independent Business and the Small Business Council of the Chamber of Commerce of Hawaii recommends contracting services to private industry which offers a flexible work force for the government, and broadens the State's tax base through collection of licensing fees and general excise and income taxes.

Your Committee further finds that a study to identify areas in which private sector contracting could increase efficiency and reduce cost, without jeopardizing the employment of any civil servant would greatly benefit the State.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.R. No. 63 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 927 Government Operations and County Relations on S.R. No. 28

The purpose of this resolution is to request a study to determine which elected and appointed officers and employees of the State and County governments are considered to be full-time and to what rights and benefits they are entitled.

Your Committee finds that present laws are unclear as to whether certain elected and appointed state and county officers and employees are considered full-time. This has caused confusion as to the rights and benefits to which these officers and employees are entitled.

Your Committee received testimony from the Director of Personnel Services and the City Council of the City and County of Honolulu in support of this resolution.

Upon the recommendation of the Director of Personnel Services and the City Council, your Committee amended the resolution to request that the study be conducted by the Conference of Personnel Directors, and a member of the Hawaii State Association of Counties (HSAC) Legislative Committee, in conjunction with the Attorney General. These amendments will allow representatives from both the State and the counties to address the multi-jurisdictional aspects of this resolution.

Your Committee has further amended the resolution by making technical changes which have no substantive effect.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.R. No. 28, as amended herein, and recommends that it be referred to the Committee on Human Resources, in the form attached hereto as S.R. No. 28, S.D. 1.

Signed by all members of the Committee.

SCRep. 928 Hawaiian Programs on S.R. No. 39

The purpose of this resolution is to establish a group of duly authorized representatives of all state departments and agencies to develop strategies and coordinate the delivery of services to native Hawaiians in consultation with the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands.

Presently there is no system or method of coordinating and involving state departments and agencies for the delivery of services to native Hawaiians.

Your Committee finds that the effective delivery of services to native Hawaiians cannot be accomplished without the cooperation of various departments and agencies. The advisory group will be given the task of examining the respective roles and responsibilities of the respective departments and agencies.

Your Committee is in agreement with testimony that the group should include among its tasks the possibility of developing a State Functional Plan on native

Hawaiians and to extend the scope of the group's work to include Hawaiians along with native Hawaiians.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of S.R. No. 39 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 929 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. Nos. 6 to 12 and Stand. Com. Rep. Nos. 930 to 944 on April 19, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 930 Economic Development on H.B. No. 703

The purpose of this bill is to encourage the generation of electricity from non-fossil fuel sources by providing a framework for the setting of rates by the Public Utilities Commission for purchase by electric utilities of alternate energy.

This bill addresses payments by utilities for qualifying small power producers and cogenerators under the rules set forth in the Federal Public Utility Regulatory Policies Act (PURPA) of 1978. Under PURPA, the utilities are required to pay not less than 100 percent of full avoided costs for both firm and non-firm energy sources. In this regard, "avoided costs" means the dollar savings a utility enjoys by virtue of the receipt of energy from alternate sources relative to the cost of generating the energy by its own means. Payments at this level have been determined to be the minimum level of encouragement necessary to support continued development of cogeneration and small power production.

Importantly, the federal rules expressly permit the state Public Utilities Commission to authorize payments in excess of full avoided costs if deemed necessary for encouragement of the technologies. In light of the federal law and activities in other states to implement PURPA, your Committee finds that the Public Utilities Commission has been slow to implement the pricing and other rules. As a result, your Committee has determined that the Commission has not been encouraging Hawaii's utilities to work with qualifying facilities to reduce our State's dependence of fossil fuels.

Your Committee has heard comprehensive testimony on alternate energy electrical generation on a number of bills introduced in this session of the Legislature. H.B. No. 703, H.D. 1 represents the culmination of efforts by many interested and affected groups to provide enabling legislation to guide the Public Utilities Commission in the implementation of an electrical rate structure for alternate energy for the State of Hawaii.

As a result, your Committee has heard favorable support for this bill from the Department of Planning and Economic Development, Wind Power Association of Hawaii, the Hawaiian Sugar Planters' Association, Renewable Energy Ventures and Hawaiian Dredging and Construction Company.

In recommending adoption of this measure, it is your Committee's intent that the Public Utilities Commission set rates for each alternate source of electrical energy. Your Committee is mindful of the fact that alternate energy sources such as geothermal, bagasse and wind each have their own unique characteristics regarding daily, seasonal, annual and long-term production and availability; that all sources are not equally firm at all times. For example, while wind energy may vary on a seasonal basis, its continued availability over an extended period of time may well compare favorably with bagasse and geothermal generated electricity which have their own long-term development concerns. In this regard, your Committee believes that, in order to stimulate and expedite the development of alternate energy sources and to phase out fossil fuel dependence in Hawaii without delay, a single, common rate for utility purchases of alternate energy electric power is necessary and appropriate.

In setting the rate for utility purchases of alternate energy electrical power, it is the intent of your Committee that the Commission set the rate at 100 percent of the

estimated avoided cost to the utilities, including consideration for energy, capacity, operations, maintenance, transmission and distribution expected to be avoided by the purchase of the most firm alternate electrical energy source.

In addition to setting a rate at 100 percent of avoided cost, it is your Committee's intent that a base rate or minimum floor also be determined. The purpose of the minimum floor is to provide an income floor to alternate energy sources in order to protect them against large fluctuations in the cost of fossil fuels such as has been experienced during the last several months of 1982 and the first three months of 1983. It is intended that the minimum floor be set at a level sufficient to stimulate alternate energy development and, at the same time, be fair to the consumer. Your Committee anticipates that, due to fluctuations in the cost of fossil fuels resulting from actions taken by OPEC and other oil producers, the cost of fossil fuels may, from time to time, decrease to a point at which 100 percent of the full avoided cost may become equal to or even fall below the minimum floor established by the Commission. It is your Committee's intent that, under such circumstances, the minimum floor shall prevail until such time as 100 percent of full avoided cost exceeds the minimum floor. In your Committee's judgement such a step is needed in order to sustain the State's momentum and nationwide leadership in alternate energy development.

Your Committee is well aware that the approach provided herein may be considered unique. However, innovative measures appear necessary in order to assist alternate energy development in Hawaii in an optimum fashion. Further, your Committee feels that the Commission should seriously consider the feasibility of requiring long-term contracts with suppliers of alternate energy.

It is anticipated that future sessions of the Legislature will re-examine the continuing efforts of alternate energy producers, the Commission, and Hawaii's public utilities, towards energy independence for the State of Hawaii in light of changing technology and economic factors in the marketplace.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 703, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 931 (Joint) Transportation and Federal Relations on S.C.R. No. 47

The purpose of this concurrent resolution is to request that the Federal Departments of Defense and Transportation give special consideration and due care in evaluating Wheeler Air Force Base and Barber's Point Naval Air Station for joint military and civilian use, and to include its findings in its report to Congress due in September 1983.

Your Committees find that joint civilian and military use of a military airport on Oahu presents the most feasible and economical solution to relieving the dangerous air traffic congestion at Honolulu International Airport. The Congress has recognized the benefits of joint use of military airports and has directed the federal Departments of Defense and Transportation to submit a plan to Congress by September 1983, for making domestic military airfields available for joint military and civilian use. This concurrent resolution requests that the study give special consideration to joint use of Wheeler Air Force Base and Barber's Point Naval Air Station.

Your Committees have amended this concurrent resolution by deleting specific reference to Wheeler Air Force Base and Barber's Point Naval Air Station, which appears in the title and elsewhere of this concurrent resolution, to allow greater flexibility in developing a joint use site and has included a provision that a delegation be sent to Washington, D.C. to further pursue the matter.

Your Committees have further amended the concurrent resolution by making technical nonsubstantive changes.

Your Committees on Transportation and Federal Relations are in accord with the intent and purpose of S.C.R. No. 47, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 47, S.D. 1.

Signed by all members of the Committees.

SCRep. 932 Agriculture on H.B. No. 1117

The purpose of this bill is to repeal Chapter 204, Hawaii Revised Statutes.

Chapter 204, Hawaii Revised Statutes, was enacted to provide authorization for the Department of Planning and Economic Development to hold State fairs to promote agricultural products of the State. Testimony on the bill submitted by the Department of Agriculture indicates that Chapter 204 was never used for its intended purpose.

Moreover, the Hawaii Farm Bureau Federation currently sponsors an annual State Farm Fair to promote agricultural products. The Federation has received State assistance for the fair in recent years.

In view of the foregoing, your Committee is in agreement that Chapter 204 serves no useful purpose and should be repealed.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1117 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 933 (Joint) Consumer Protection and Commerce and Human Resources on S.C.R. No. 61

The purpose of this concurrent resolution is to arrange for a study of the workers' compensation program by the Legislative Auditor in order to provide the Legislature with a basis for considering reform alternatives.

It is the intent of this concurrent resolution, which was widely supported by representatives of employers, the insurance industry, labor, and the state administration, that the study will be broad and comprehensive and will examine the advantages, disadvantages, and feasibility of the various alternatives based on low cost to employers, adequate profit to the insurance industry, and assurance that injured workers are provided fair and reasonable income and indemnity benefits.

Taking into consideration the views and suggestions which were heard at the public hearing on the concurrent resolution, your Committees have made the following amendments:

- (1) In the eighth WHEREAS clause, reference to a "competitive state system" has been changed to "competitive state fund".
- (2) The final WHEREAS clause has been deleted.
- (3) In the first BE IT RESOLVED clause, financial impact of the various alternatives has been added as a specific component to be included in the study.
- (4) In the second BE IT RESOLVED clause, which requests the Legislative Auditor to present its findings and recommendations to the 1985 Regular Session, the Legislative Auditor is also requested to provide to the extent practicable such findings and recommendations as may be ready for consideration in the 1984 Regular Session.

Your Committees on Consumer Protection and Commerce and Human Resources concur with the intent and purpose of S.C.R. No. 61, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 61, S.D. 1.

Signed by all members of the Committees except Senators Cayetano and A. Kobayashi.

SCRep. 934 (Joint) Consumer Protection and Commerce and Human Resources on S.R. No. 77

The purpose of this resolution is to arrange for a study of the workers' compensation program by the Legislative Auditor in order to provide the Legislature with a basis for considering reform alternatives.

It is the intent of this resolution, which was widely supported by representatives

of employers, the insurance industry, labor, and the state administration, that the study will be broad and comprehensive and will examine the advantages, disadvantages, and feasibility of the various alternatives based on low cost to employers, adequate profit to the insurance industry, and assurance that injured workers are provided fair and reasonable income and indemnity benefits.

Taking into consideration the views and suggestions which were heard at the public hearing on the resolution, your Committees have made the following amendments:

- (1) In the eighth WHEREAS clause, reference to a "competitive state system" has been changed to "competitive state fund".
- (2) The final WHEREAS clause has been deleted.
- (3) In the first BE IT RESOLVED clause, financial impact of the various alternatives has been added as a specific component to be included in the study.
- (4) In the second BE IT RESOLVED clause, which requests the Legislative Auditor to present its findings and recommendations to the 1985 Regular Session, the Legislative Auditor is also requested to provide to the extent practicable such findings and recommendations as may be ready for consideration in the 1984 Regular Session.

Your Committees on Consumer Protection and Commerce and Human Resources concur with the intent and purpose of S.R. No. 77, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 77, S.D. 1.

Signed by all members of the Committees except Senators Cayetano and A. Kobayashi.

SCRep. 935 Consumer Protection and Commerce on S.C.R. No. 49

The purpose of this concurrent resolution is to request the Legislative Auditor, in conjunction with the Department of Commerce and Consumer Affairs and the Department of Transportation to conduct an audit of the Harbor Pilots Association and Hawaii Pilot Boat Service, Inc., and to review the implementation and administration of the pilotage system.

Act 231, 1978 Session Laws of Hawaii, established a new pilotage law to provide for a state pilotage system devoted to the preservation and protection of lives, property and vessels entering or leaving the waters of the State, and to insure a supply of qualified pilots to safely and economically meet the requirements of commerce. Current law utilizes state licensed pilots to provide pilotage services as private contractors regulated through a Board of Pilot Commissioners within the Department of Commerce and Consumer Affairs.

The Board is responsible to limit, set or adjust the number of pilot licenses issued as well as to establish the rates of pilotage for vessels. Your Committee finds that the number of licenses issued to the Board has reached the maximum limit of nine, and the Board is currently reviewing a request for a rate increase by the Hawaii Pilots Association.

Your Committee further finds that a review of the implementation and administration of the pilotage law is necessary for the Legislature to assure the proper functioning of the Board and the State pilotage system in the interest of the public.

Your Committee has amended this concurrent resolution to make technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 49, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 49, S.D. 1.

Signed by all members of the Committee except Senators Carpenter and Cayetano.

SCRep. 936 Consumer Protection and Commerce on S.R. No. 60

The purpose of this resolution is to request the Legislative Auditor, in

conjunction with the Department of Commerce and Consumer Affairs and the Department of Transportation to conduct an audit of the Harbor Pilots Association and Hawaii Pilot Boat Service, Inc., and to review the implementation and administration of the pilotage system.

Act 231, 1978 Session Laws of Hawaii, established a new pilotage law to provide for a state pilotage system devoted to the preservation and protection of lives, property and vessels entering or leaving the waters of the State, and to insure a supply of qualified pilots to safely and economically meet the requirements of commerce. Current law utilizes state licensed pilots to provide pilotage services as private contractors regulated through a Board of Pilot Commissioners within the Department of Commerce and Consumer Affairs.

The Board is responsible to limit, set or adjust the number of pilot licenses issued as well as to establish the rates of pilotage for vessels. Your Committee finds that the number of licenses issued to the Board has reached the maximum limit of nine, and the Board is currently reviewing a request for a rate increase by the Hawaii Pilots Association.

Your Committee further finds that a review of the implementation and administration of the pilotage law is necessary for the Legislature to assure the proper functioning of the Board and the State pilotage system in the interest of the public.

Your Committee has amended this resolution to make technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 60, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 60, S.D. 1.

Signed by all members of the Committee except Senators Carpenter and Cayetano.

SCRep. 937 Consumer Protection and Commerce on H.B. No. 684

The purpose of this bill is to amend the time in which a tenant must remedy any material noncompliance under Section 521-51, Hawaii Revised Statutes, and any breach of rule under Section 521-52, Hawaii Revised Statutes, from the current fifteen days to ten days after the tenants' receipt of a notice.

Section 521-51 requires a tenant to properly maintain the dwelling unit being rented and Section 521-52 requires a tenant to comply with reasonable rules of the landlord regarding the use, occupancy and maintenance of the dwelling unit.

Currently, Sections 521-69 and 521-72, Hawaii Revised Statutes, provide for a fifteen day period after written notification is given to a tenant of any noncompliance with Sections 521-51 and 521-52, during which the tenant may remedy the noncompliance. If the tenant fails to remedy the noncompliance during the fifteen day period, the landlord may take appropriate action against the tenant, including eviction proceedings. This bill shortens the period given the tenant to remedy any noncompliance to ten days.

Your Committee received testimony from the Office of Consumer Protection stating that the noncompliance or breaches of rules generally alleged in complaints to the Office involve tenants who make unreasonable noise or who allow unauthorized persons to reside in the dwelling unit, and the reduction of time to ten days will not place an unreasonable burden on the tenant.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 684 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt and B. Kobayashi.

SCRep. 938 Consumer Protection and Commerce on H.B. No. 527

The purpose of this bill is to allow industrial loan companies to charge prepayment penalties on real estate loans written for five years or longer, which are not adjustable, variable rate, or open-end loans.

Testimony by the Hawaii Consumer Finance Association indicated that institution of the prepayment penalty would partially compensate industrial loan companies for interest losses caused by prepayment and would establish parity for such companies with banks, savings and loan associations, and insurance companies, all of which are currently entitled to charge such penalties.

Under this bill, industrial loan companies could impose a prepayment charge equal to six months interest on any amount in excess of twenty per cent of the original principal prepaid for any reason in a twelve-month period, provided that 1) the amounts are prepaid within five years of the date of contract; 2) the loans are primarily secured by real property; 3) the prepayment charge is not applicable to adjustable or variable rate loans and open-end loans; and 4) the loan pre-payment is voluntary and not arising out of acceleration clauses in the mortgage loan contracts.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 527, 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 Senators Carpenter, Cayetano, Holt and Kuroda.

SCRep. 939 Consumer Protection and Commerce on H.B. No. 914

The purpose of this bill is to delete references to the law on retail installment sales from the laws on industrial loan companies.

Currently, Chapter 408, Hawaii Revised Statutes, provides very detailed laws which industrial loan companies must follow in making loans to the public. The Retail Installment Sales Act, Chapter 476, Hawaii Revised Statutes, provides sellers of goods with a different, although often similar, set of laws when the sale of goods and services are to be financed on some installment plan. These two separate laws are designed to govern the extension of credit by two entirely different groups of persons or companies. Industrial loan companies often purchase retail installment contracts and several references to the Retail Installment Sales Act have found their way into the Chapter 408. These references have created confusion in the laws. This bill will remove the confusing references between the two chapters, thus clarifying that retail installment contracts are to be made under Chapter 476 and loans under Chapter 408.

Testimony supporting the bill was submitted by the Hawaii Bankers Association, the Hawaii Consumer Finance Association, and the Hawaii League of Savings Associations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 914, 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 Senators Carpenter, Cayetano, Holt and Kuroda.

SCRep. 940 Ecology, Environment and Recreation on S.R. No. 58

The purpose of this resolution is to request the Department of Land and Natural Resources to prepare a status report on the development of Kahana Valley as a "living park".

Your Committee finds that the development of Kahana Valley as a state park has been disappointingly slow and that the cause may be the unresolved question of whether to develop the valley as a "living park" or as a regular state park. The report requested by this resolution is needed to assess the alternatives and to determine in which direction the State should move.

Your Committee has amended this resolution by including the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands among agencies involved in the study, and by specifying that the Chairperson of the Board of Land and Natural Resources submit the study to the Legislature.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 58, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 58, S.D.1.

Signed by all members of the Committee.

SCRep. 941 Ecology, Environment and Recreation on S.C.R. No. 46

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to prepare a status report on the development of Kahana Valley as a "living park".

Your Committee finds that the development of Kahana Valley as a state park has been disappointingly slow and that the cause may be the unresolved question of whether to develop the valley as a "living park" or as a regular state park. The report requested by this concurrent resolution is needed to assess the alternatives and to determine in which direction the State should move.

Your Committee has amended this concurrent resolution by including the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands among agencies involved in the study, and by specifying that the Chairperson of the Board of Land and Natural Resources submit the study to the Legislature.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 46, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 46, S.D.1.

Signed by all members of the Committee.

SCRep. 942 Ecology, Environment and Recreation on S.C.R. No. 43

The purpose of this concurrent resolution is to request that the United States General Services Administration (GSA) postpone the sale of Camp Malakole at Campbell Industrial Park until the State finds a method to finance the purchase.

Your Committee agrees with the purpose of this concurrent resolution and also understands that the GSA is planning to sell several other parcels that the State is interested in purchasing. The Department of Land and Natural Resources submitted testimony stating that there are approximately 370 acres of federal surplus fee land which are up for sale in the State.

Your Committee finds that rather than single out one parcel of land, the resolution should include all parcels of federal surplus land which are up for sale. Accordingly, the resolution has been amended by revising the language and title to request the GSA to refrain from disposing of any federal surplus lands until the State and counties of Hawaii have been able to fully determine the people of Hawaii's needs for these lands and until final resolution of the State's lawsuit regarding the GSA's refusal to consider the State's application for the surplus land.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 43, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 43, S.D. 1.

Signed by all members of the Committee.

SCRep. 943 Ecology, Environment and Recreation on S.C.R. No. 35

The purpose of this concurrent resolution is to authorize the Department of Land and Natural Resources to expand the use of private concession agreements to provide state camping and lodging facilities and services.

Your Committee finds that due to the current and foreseeable future fiscal climate, it is anticipated that public funding for development and operation of cabin rental facilities in certain State parks will be severely curtailed. Your Committee further finds that availability of cabins enhances the use of certain State parks and therefore, authorizing use of concession agreements and private developers and capital to develop and operate cabin rental facilities is in the public interest.

Your Committee has amended the fourth "whereas" clause by changing the phrase "elimination of federal assistance" to "reduction of federal assistance".

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.C.R. No. 35, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 35, S.D. 1.

Signed by all members of the Committee.

SCRep. 944 Ecology, Environment and Recreation on S.R. No. 65

The purpose of this resolution is to request the Department of Land and Natural Resources to renew its plans to create Honomalino state park with minimal improvement, to preserve the significant archaeological sites in the area, and to investigate the acquisition of the privately owned portion of the proposed state park.

Your Committee finds that the request for creation of the Honomalino state park was initiated in 1971 by the Department of Land and Natural Resources Division of State Parks, and the concept was adopted by the Board of Land and Natural Resources the same year. However, no further action on this project has been taken.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 65 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 945 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. Nos. 13 to 58 on April 19, 1983;

Conf. Com. Rep. Nos. 59 to 62 and Stand. Com. Rep. Nos. 946 to 973 on April 20, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 946 Government Operations and County Relations on H.B. No. 514

The purpose of this bill is to repeal Section 46-4.1, Hawaii Revised Statutes, to allow the counties to determine the size, membership or composition of county zoning boards of appeals.

Section 46-4.1 requires that in any county with a population of more than 100,000 persons, the board of zoning appeals shall consist of five members.

Your Committee finds that the size, composition or membership of county zoning boards of appeals should be left to the discretion of the counties.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 514 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hagino.

SCRep. 947 Consumer Protection and Commerce on H.B. No. 657

The purpose of this bill is to extend the expiration date of the Board of Electricians and Plumbers from December 31, 1983, until December 31, 1989, and to delete motion picture operators from regulation by such board.

Your Committee heard testimony from many electrical and plumbing organizations to the effect that continued regulation and licensing of electricians and plumbers is necessary to protect the public from dangers such as faulty electrical installation which can lead to shocks and fires, and improper plumbing which may contaminate the water system.

The Department of Labor and Industrial Relations testified that although other safeguards such as the Contractors' licensing requirement, county codes, and the fire code are helpful, they do not provide protection as comprehensively as the electrician and plumbers licensing requirement. However, your Committee is concerned about the Legislative Auditor's findings on the high examination failure rate of license applicants, and has requested that the Board report on progress made in improving the examination no later than twenty days prior to the convening of the 1984 Regular Session.

Your Committee agrees with the Legislative Auditor that the licensing of motion picture operators by the Board of Electricians and Plumbers is no longer necessary

due to advances in equipment quality and safety, and this bill accordingly deletes statutory references to motion picture operators from Chapter 448E.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 657 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt and Henderson.

SCRep. 948 Hawaiian Programs on H.B. No. 234

The purpose of this bill is to allow the Department of Hawaiian Home Lands greater flexibility in the granting of licenses for lands under its control.

Currently the Department may grant licenses not to exceed twenty-one years to a public utility company as easements for telephone lines, electric power and light lines, gas mains, and the like.

Your Committee finds that the twenty-one year license term is unduly restrictive and does not serve the best interest of the homestead communities. Allowing the Department to use its discretion to determine the terms, conditions and restrictions for the issuance of licenses will assure uninterrupted utility service and provide a more equitable working relationship between the public utilities and the Department.

Your Committee on Hawaiian Programs is in accord with the intent and purpose of H.B. No. 234 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 949 Higher Education on S.C.R. No. 83

The purpose of this concurrent resolution is to encourage the University of Hawaii administration to recognize the on-campus housing needs of students and to explore the possibility of providing such facilities to meet the growing demand.

Your Committee finds that there is an acute shortage of on-campus housing at the University of Hawaii at Manoa, Maui Community College, and University of Hawaii at Hilo. Your Committee also finds that the number of applications for on-campus student housing currently exceeds the capacity of available facilities and that this situation will continue unless immediate and appropriate action is taken.

The University of Hawaii administration presented testimony which identified financing as the major obstacle to providing additional on-campus student housing. Moreover revenues derived from student housing may be insufficient to finance the construction of new facilities as well as fund the continuing maintenance and operational costs of existing facilities. Therefore, your Committee encourages the University of Hawaii to proceed vigorously to identify viable alternative methods of providing affordable student housing to reduce or alleviate the current on-campus housing problem.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 83 and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 950 Consumer Protection and Commerce on H.B. No. 273

The purpose of this bill is to delete the July 1, 1983 repeal date relating to the power of the Director of Commerce and Consumer Affairs to issue investigatory subpoenas.

Your Committee finds that the ability of the Director to issue investigatory subpoenas has proven to be a valuable tool in obtaining information necessary to conduct complete investigations of consumer complaints. If the power of the Director to subpoena documents and witnesses is not continued, the Department will not be able to obtain all relevant facts during the course of its investigations.

Your Committee further finds that it is the Department's policy to seek voluntary compliance with requests for information; however, it is essential to effective

enforcement that the Department have subpoena power. The Department's record of judicious exercise of its subpoena power supports elimination of the "drop dead" provision within the present law, which this bill will accomplish.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 273 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt and Henderson.

SCRep. 951 Consumer Protection and Commerce on H.B. No. 284

The purpose of this bill is to amend the commercial employment agencies law by repealing the appeal board provided under Chapter 373, Hawaii Revised Statutes, and instead providing a hearings procedure pursuant to Chapter 91, Hawaii Revised Statutes.

The enforcement of the commercial employment agencies law was originally under the jurisdiction of the Department of Labor and Industrial Relations (DLIR), which handled license grievances through its' appeal board as provided by statute. In 1980, the enforcement of the commercial employment agencies law was transferred from the DLIR to the Department of Commerce and Consumer Affairs (DCCA). The DCCA handles license grievances through a hearings procedure pursuant to Chapter 91, Hawaii Revised Statutes, and does not utilize an appeal board.

This bill would repeal the appeal board and provide a hearings procedure for commercial employment agency applicants and licensees in conformance with DCCA procedures and policies and allow these persons to appeal their cases to the circuit court in the manner provided under Chapter 91.

The bill also raises the license fee for employment agencies from \$25 to \$37.50.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 284, 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 Senators Carpenter, Cayetano, Kuroda and Soares.

SCRep. 952 Consumer Protection and Commerce on H.B. No. 340

The purpose of this bill is to amend Section 436D-3, Hawaii Revised Statutes, to permit osteopathic physicians licensed under Chapter 460, Hawaii Revised Statutes, to practice acupuncture without being licensed by the Board of Acupuncture.

During the hearing on this bill your Committee inquired at length into procedures for the training and qualification in the use of acupuncture techniques, and expressed great concern over the quality of services rendered by those who have not undergone such preparation.

Your Committee emphasizes that any person who practices any mode of acupuncture without first having completed training and been examined for competence runs the substantial risk of personal liability litigation. Your Committee recommends passage of this bill with that emphasis, and expresses its concern for the paramount right of consumers to receive professionally competent medical treatment. The testimony heard assured your Committee that licensed medical practitioners are aware of and respect that responsibility.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 340, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt and Kuroda.

SCRep. 953 Consumer Protection and Commerce on H.B. No. 440

The purpose of this bill is to establish uniform and fair standards for determining the conditions under which purely voluntary, optional coverages offered under the

no-fault law may be terminated or adjusted by insurers.

Presently, an insurer is not allowed to cancel or adjust optional insurance coverage to reflect a change in the quality of risk the insurer takes, and insurers do not have the right to determine to whom they would offer purely optional coverage.

The 1982 State Legislature created a panel to review the concerns of the insurance industry regarding optional coverages under the no-fault law. The panel included representatives from the Hawaii Bar Association, the Hawaii Independent Insurance Agent's Association, the Insurance Division, and the Dean of the University of Hawaii School of Law. The proposals offered in this bill are an outcome of the panel's efforts. This bill deals only with those optional coverages, voluntarily offered by insurers for competitive reasons, which are beyond or in excess of optional coverages which must be made available to insureds pursuant to Section 294-11, Hawaii Revised Statutes, and the administrative rules adopted by the Insurance Division. Since current rules require insurers to offer all comers \$100,000 of no-fault benefits and \$100,000 of bodily injury liability, the proposed bill will only apply to coverages which exceed these limits.

This bill will permit an insurer to refuse to renew and thus to reduce coverage of an insured down to, but not below, the levels of options required by law to be made available to insureds. The insurer will be permitted to cancel or to reduce coverage to the level of the mandatory options only at the time of renewal, not during the term of coverage.

The bill provides uniform and objective criteria for determining the circumstances under which an insurer may refuse to renew coverages in excess of those which must be offered. These are the high-risk criteria established by the Insurance Division for the joint underwriting plan pursuant to section 294-22(b)(1)(A) and (B), Hawaii Revised Statutes.

The panel also addressed the concern that the very broad provisions of Section 294-9(c), might preclude an insurer from canceling or rescinding coverage in excess of that required to be offered, even in cases where the higher optional coverage was obtained as a result of fraud or misrepresentation of a material fact by the insured. Your Committee agrees with the panel's recommendations that clarifying language be included to deal with the special problem of rescissions for fraud or misrepresentation. The bill has been amended accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 440 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Kuroda and Soares.

SCRep. 954 Hawaiian Programs on Gov. Msg. No. 281

Recommending that the Senate advise and consent to the nominations to the Hawaiian Homes Commission of the following:

HOALIKU DRAKE, for a term ending December 31, 1985; and

CLARENCE K. KAMAI and LINDA K. ROSEHILL, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 955 Government Operations and County Relations on H.B. No. 1129

The purpose of this bill is to eliminate the ceiling of \$40,000 in the use of a certificate of deposit, cashier's check or certified check for concession bid deposits.

Under present law a certificate of deposit, cashier's check, or certified check may be utilized for a bid deposit only to a maximum of \$40,000. Any excess over \$40,000, must be in cash or a surety bond. In a recent bid opening for airport concessions, a bidder deposited \$141,000 in cash to satisfy the bid deposit requirements.

Many business firms have difficulty acquiring a surety bond to meet concession

bid deposit requirements and must either use cash or not bid at all. The continued use of cash for large bid deposits is impractical and unsafe.

Removal of the ceiling on the use of certificates of deposit, cashiers checks and certified checks will make it safer and easier for firms to bid for concessions.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 1129 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hagino.

SCRep. 956 Youth and Elderly Affairs on S.R. No. 113

The purpose of this resolution is to request that the Department of Land and Natural Resources study the feasibility of acquiring by land exchange the former Okimoto drug store site and building for renovation into a senior citizens community center, and if the exchange is determined feasible, to take appropriate action to effect an exchange.

Your Committee finds that the site is well-suited for a senior citizens community center that is much needed and deserved by Wahiawa's senior citizens and that obtaining the site by land exchange would be in the public interest.

Your Committee on Youth and Elderly Affairs concurs with the intent and purpose of S.R. No. 113 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 957 Education on S.C.R. No. 89

The purpose of this concurrent resolution is to declare the week of May 14 through 20, 1983, Hawaii Gifted and Talented Children's Week.

Your Committee finds that many people are not aware of the tremendous potential gifted and talented children have nor of programs which are designed for their development. Your Committee recognizes the importance of educating the public so that public awareness of these children and their potential is expanded.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 89 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 958 Education on Gov. Msg. Nos. 184, 185 and 186

Recommending that the Senate advise and consent to the nominations of the following:

CECILIA C. VILLAFUERTE, MARY ANNE MIGAN and HIROSHI YAMASHITA to the Hawaii Education Council, for terms ending December 31, 1986;

JOHN A. THOMPSON to the Education Commission of the States, for a term ending December 31, 1983;

BETTY HEMPHILL to the Library Advisory Commission, City and County of Honolulu, for a term ending December 31, 1983;

ETHELREDA R. KAHALEWAI to the Library Advisory Commission, City and County of Honolulu, for a term ending December 31, 1985; and

ROY J. HUTCHINSON and K. RUSSELL HO to the Library Advisory Commission, City and County of Honolulu, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 959 Economic Development on Gov. Msg. Nos. 109, 110, 111, 112, 182, 183 and 229

CHARLES H. OKUYAMA to the Board of Planning and Economic Development, for a term ending December 31, 1984;

KEITH K. CROSSON to the Board of Planning and Economic Development, for a term ending December 31, 1986;

DONALD M. KUYPER to the Board of Directors, Aloha Tower Development Corporation, for a term ending December 31, 1986;

FRANK GOTO, ASAHI OKAMOTO and JOSEPH "DOLLY" MAKUA to the Hawaii Fisheries Coordinating Council, for terms ending December 31, 1986;

WILLIAM W.L. YUEN to the Land Use Commission, for a term ending December 31, 1986; and

SUSUMU ONO as Chairman, Board of Land and Natural Resources, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 960 Health on Gov. Msg. Nos. 282, 283, 284 and 285

Recommending that the Senate advise and consent to the nominations of the following:

MARGARET P. JOSIAH, PETER CABRAL and JAMES D. WILLIAMS to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1986;

RICHARD PAUL BETTINI, GLENN FUJIHARA, D.D.S., JOHN DOMEN, JR., and MELVIN DUMANCAS to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1984, December 31, 1986, December 31, 1985, and December 31, 1985, respectively;

AGNES JEROME MURPHY, SETSUO FURUNO, Ph.D., and MYRON W. HATCH to the State Planning Council on Developmental Disabilities, for terms ending December 31, 1986; and

ROBERT L. MAY, M.D., to the Board of Radiologic Technologists, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 961 Economic Development on S.C.R. No. 54

The purpose of this concurrent resolution is to urge the Governor and the Board of Land and Natural Resources to give Hawaiian Tuna Packers first priority for use of state property on Koula Street, Honolulu, Hawaii, for expansion of the cannery operation when the property becomes available. This action would be contingent upon Hawaiian Tuna Packers giving the State reasonable assurances that it intends to keep its cannery operation in Hawaii.

The property in question is approximately 1.4 acres in area and was set aside by Executive Order No. 2742 to the Department of Accounting and General Services (DAGS) for a maintenance and storage baseyard. DAGS no longer uses the premises and a portion is used by the State of California, in conjunction with the Hawaii State Department of Agriculture, under a lease arrangement for a fruit fly breeding facility. The Department of Health also uses a portion of the premises. The fruit fly operation will be terminated in a year or so, thus making the space available for other uses.

Testimony by the Board of Land and Natural Resources indicates that they will be able to accommodate Hawaiian Tuna Packers when the fruit fly operation vacates.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 54 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 962 Federal Relations on H.C.R. No. 69

The purpose of this House concurrent resolution is to urge the President, the Secretary of State, and the United States Congress to place a high priority on the reduction of nuclear arms.

Your Committee finds that the State of Hawaii faces a uniquely ominous threat from the perils of nuclear war and radiation due to the location of military bases within the State and that the well-being of the people of Hawaii dictates that the leaders of the United States assume the responsibility of reducing the existing stockpiles of nuclear warheads, missiles, and other delivery systems.

Your Committee on Federal Relations concurs with the intent and purpose of H.C.R. No. 69 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 963 Health on S.R. No. 134

The purpose of this resolution is to request that the Department of Health consider the adoption of a rule to require stamping the processed and pull date on each carton of milk.

Currently, the date stamped on the cartons of milk indicates the date on which the cartons must be removed from the shelf. Your Committee finds that including the processed date would provide consumers with clearer information on the freshness of the product than the pull date alone.

Your Committee has amended the resolution by rewording the first "BE IT FURTHER RESOLVED" clause to request the Department of Health to report what actions, if any, it has taken with respect to the adoption of such a rule.

Your Committee on Health concurs with the intent and purpose of S.R. No. 134, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 134, S.D. 1.

Signed by all members of the Committee except Senator Young.

SCRep. 964 Health on S.C.R. No. 107

The purpose of this concurrent resolution is to request that the Department of Health consider the adoption of a rule to require stamping the processed and pull date on each carton of milk.

Currently, the date stamped on the cartons of milk indicates the date on which the cartons must be removed from the shelf. Your Committee finds that including the processed date would provide consumers with clearer information on the freshness of the product than the pull date alone.

Your Committee has amended the concurrent resolution by rewording the first "BE IT FURTHER RESOLVED" clause to request the Department of Health to report what actions, if any, it has taken with respect to the adoption of such a rule.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 107, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 107, S.D. 1.

Signed by all members of the Committee except Senator Young.

SCRep. 965 Education on S.R. No. 116

The purpose of this resolution is to request that the Department of Education's Office of Library Services establish a public library portastucture facility in the Moanalua-Salt Lake area.

Your Committee has been advised that the environmental impact statement prepared by the Department of Accounting and General Services indicates that the best site for the new Moanalua-Salt Lake Community Library will not be available for at least twelve months.

Your Committee finds that the Moanalua-Salt Lake area residents are receiving inadequate library services which can be improved through the use of library portastuctures.

Your Committee further finds that library portastuctures have been used successfully in other cities and that federal funds are available to Hawaii's public library system to establish temporary portastucture library facilities.

Your Committee on Education concurs with the intent and purpose of S.R. No. 116 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie, Carpenter and A. Kobayashi.

SCRep. 966 Youth and Elderly Affairs on S.C.R. No. 116

The purpose of this concurrent resolution is to request that the Department of Land and Natural Resources study the feasibility of acquiring by land exchange the former Okimoto drug store site and building for renovation into a senior citizens community center, and if the exchange is determined feasible, to take appropriate action to effect an exchange.

Your Committee finds that the site is well-suited for a senior citizens community center that is much needed and deserved by Wahiawa's senior citizens and that obtaining the site by land exchange would be in the public interest.

Your Committee on Youth and Elderly Affairs concurs with the intent and purpose of S.C.R. No. 116 and recommends its adoption.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 967 Ecology, Environment and Recreation on S.C.R. No. 67

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to resolve the question of liability on private land where public recreational use is allowed; designate and identify, on its recreational maps, those trails which are on private land as well as those on public land; inform private landowners of their protection from liability to persons crossing their lands for recreational purposes; and to make trail access a high priority.

Your Committee heard supporting testimony from the Department of Land and Natural Resources, the Office of Environmental Quality Control, the Sierra Club, Hawaii Chapter, and the Hawaii Audubon Society, and finds that access to hiking trails, whether they be on public or private land, should be encouraged and expanded as part of the State's effort to provide the people with maximum recreational opportunities and facilities. Your Committee further finds that efforts to educate landowners regarding protection from liability should help to expedite the achievement of this goal.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 67 and recommends its adoption.

Signed by all members of the Committee

SCRep. 968 Ecology, Environment and Recreation on S.R. No. 86

The purpose of this resolution is to request the Department of Land and Natural Resources to resolve the question of liability on private land where public recreational use is allowed; designate and identify, on its recreational maps, those trails which are on private land as well as those on public land; inform private landowners of their protection from liability to persons crossing their lands for recreational purposes; and to make trail access a high priority.

Your Committee heard supporting testimony from the Department of Land and Natural Resources, the Office of Environmental Quality Control, the Sierra Club, Hawaii Chapter, and the Hawaii Audubon Society, and finds that access to hiking trails, whether they be on public or private land, should be encouraged and expanded as part of the State's effort to provide the people with maximum recreational opportunities and facilities. Your Committee further finds that efforts to educate landowners regarding protection from liability should help to expedite the achievement of this goal.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 86 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 969 Ecology, Environment and Recreation on S.C.R. No. 65

The purpose of this concurrent resolution is to urge the United States Congress

and the Environmental Protection Agency to prohibit the export of pesticides that are not registered for use in this country, except where public health emergencies may require its use and the importing government consents to such use.

Presently, certain pesticides which have been canceled for use in the United States are allowed to be produced for export and sale to developing countries.

Your Committee finds that this practice not only causes serious medical problems in countries importing these pesticides but to the people of our country as well that consume produce exported from these same countries.

Your Committee also finds that the misuse and improper application of pesticides may cause irreparable harm to non-targeted species and other wildlife dependent on an environmentally safe habitat.

Your Committee has amended this concurrent resolution by:

- (1) amending the title to more accurately reflect its intent;
- (2) citing the World Health Organization as reference for new data illustrating the number of people affected by pesticides in developing countries;
- (3) transmitting copies of this concurrent resolution to the President of the United States Senate and the Speaker of the United States House of Representatives instead of congressional committees; and
- (4) making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 65, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 65, S.D. 1.

Signed by all members of the Committee.

SCRep. 970 Ecology, Environment and Recreation on S.R. No. 84

The purpose of this resolution is to urge the United States Congress and the Environmental Protection Agency to prohibit the export of pesticides that are not registered for use in this country, except where public health emergencies may require its use and the importing government consents to such use.

Presently, certain pesticides which have been canceled for use in the United States are allowed to be produced for export and sale to developing countries.

Your Committee finds that this practice not only causes serious medical problems in countries importing these pesticides but to the people of our country as well that consume produce exported from these same countries.

Your Committee also finds that the misuse and improper application of pesticides may cause irreparable harm to non-targeted species and other wildlife dependent on an environmentally safe habitat.

Your Committee has amended this resolution by:

- (1) amending the title to more accurately reflect its intent;
- (2) citing the World Health Organization as reference for new data illustrating the number of people affected by pesticides in developing countries;
- (3) transmitting copies of this resolution to the President of the United States Senate and the Speaker of the United States House of Representatives instead of congressional committees; and
- (4) making technical changes which have no substantive effect.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 84, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 84, S.D. 1.

Signed by all members of the Committee.

SCRep. 971 Ecology, Environment and Recreation on S.R. No. 143

The purpose of this resolution is to request the State Parks Division of the Department of Land and Natural Resources to provide a status report on the implementation of the plans for Diamond Head State Monument, including updated cost estimates and the status of users intended to be relocated.

Your Committee finds that elaborate policies and guidelines have been completed but little progress has been made in developing the park and acquiring the surrounding land. Your Committee recognizes the importance of the preservation and conservation of the natural and historic features of this monument and of the public recognition given the monument through the annual visits of approximately 77,000 visitors.

Your Committee wishes to ensure an environmentally sensitive development, consonant with the aforementioned plans, proceeds as expeditiously as possible.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 143 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 972 Ecology, Environment and Recreation on S.C.R. No. 113

The purpose of this concurrent resolution is to request the State Parks Division of the Department of Land and Natural Resources to provide a status report on the implementation of the plans for Diamond Head State Monument, including updated cost estimates and the status of users intended to be relocated.

Your Committee finds that elaborate policies and guidelines have been completed but little progress has been made in developing the park and acquiring the surrounding land. Your Committee recognizes the importance of the preservation and conservation of the natural and historic features of this monument and of the public recognition given the monument through the annual visits of approximately 77,000 visitors.

Your Committee wishes to ensure an environmentally sensitive development, consonant with the aforementioned plans, proceeds as expeditiously as possible.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 113 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 973 Ecology, Environment and Recreation on S.C.R. No. 57

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to appraise the Lanihau/Kuka'ilomoku area abutting the makai side of the southern half of the State Park at the old Kona Airport on the Island of Hawaii and to do a study of several alternative methods of acquiring this land for inclusion into the adjoining State Park.

Your Committee recognizes that an underdeveloped forty-lot residential shoreline subdivision situated between ten acres of ocean shore and the southern half of the 117-acre State Park at old Kona Airport at Kailua-Kona on the Island of Hawaii is under imminent threat of development. Your Committee also recognizes that development of this land would have gross negative impacts on both the park lands mauka of it and the public shore makai of it.

Your Committee finds that the State park is the most popular park in Kona and is currently in the first development phase of a three phase master plan with a major park pavilion under construction.

Your Committee further finds the potential development area is in a high hazard tsunami inundation zone.

Your Committee agrees with testimony stating that state purchase of this land for the public benefit would be the best use of this land.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 57 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 974 Judiciary on S.R. No. 64

The purpose of this resolution is to request that the Legislative Reference Bureau conduct a study to determine the rationale of this state's various age-specific laws and the effects of amendments thereto.

Your Committee finds that often, the rationale for age-specific laws are obscure, thereby impeding legislative action with respect to such laws. Further, the proposed study would facilitate comprehensive and knowledgeable discussion of future proposals to amend age-specific laws.

Your Committee received favorable testimony from the Judiciary and the Department of Corporation Counsel, City and County of Honolulu.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 64 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 975 Judiciary on S.R. No. 80

The purpose of this resolution is to request that the President of the Senate appoint an interim bipartisan committee to thoroughly review campaign spending laws.

Your Committee finds that the issue of campaign spending is a complex matter of particular concern to the public and requires a systematic and extensive review, requiring public input and technical assistance from experts. Piecemeal amendments to the laws of campaign spending often work against the purpose and intent of such laws.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 80 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 976 Judiciary on S.R. No. 91

The purpose of this resolution is to request that the Family Court conduct a study to determine the scope of the problem non-custodial divorced parents have in enforcing their visitation rights and to explore possible legislative solutions which would be more efficient than court action.

Your Committee finds that many non-custodial parents have difficulty exercising their visitation rights because of the lack of cooperation by the custodial parents. The non-custodial parents are then compelled to file court actions in order to enforce their visitation rights, thereby incurring attorneys fees and court costs, and resulting in frustration and anger which may interfere in the parent and child relationship.

Your Committee heard testimony from the Family Court in favor of the resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 91 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 977 Judiciary on S.C.R. No. 77

The purpose of this resolution is to request that the Legislative Reference Bureau conduct a study of the rules and regulations of the various departments of the State of Hawaii to determine compliance with the equality of rights amendment to the State Constitution.

Your Committee finds that rules and regulations promulgated by the various state departments have not been conformed to the requirements of the equality of rights amendment to the State Constitution, which was ratified in 1972. This resolution will provide the impetus toward fulfillment of the 1972 constitutional amendment.

Your Committee received favorable testimony from the Department of Labor and Industrial Relations, the Hawaii Council of Churches, and the League of Women Voters in Hawaii.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 77 and recommends its adoption.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 978 Consumer Protection and Commerce on Gov. Msg. No. 277

Recommending that the Senate advise and consent to the nomination of NICHOLAS W. TEVES, JR., to the Board of Electricians and Plumbers, for a term ending December 31, 1985.

Signed by all members of the Committee except Senators Henderson and Soares.

SCRep. 979 Transportation on Gov. Msg. No. 286

Recommending that the Senate advise and consent to the nomination of RYOKICHI HIGASHIONNA as Director of Transportation, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 980 Judiciary on S.C.R. No. 16

The purpose of this concurrent resolution is to request that the Hawaii Crime Commission conduct a comprehensive study of the national and local trends in criminal activities since 1972, conduct a review of the penal code in light of such trends, and to report its findings and recommendations to the Legislature.

Your Committee finds that piecemeal modification of the Penal Code has produced fragmented amendments, which sometimes lack consistency with the objectives and purposes of the Code as originally enacted.

This resolution requests not only a re-examination of the existing statutes, but also, a re-examination of the intent of the Penal Code. It is intended that the agency conducting such review examine the desirability of a determinate sentencing system.

Your Committee amended the bill to provide that the Legislative Reference Bureau shall conduct such studies and shall report to the Legislature. This amendment is necessary due to the questionable status of the Hawaii Crime Commission, as its continued existence is dependent upon the Legislature.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 16, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 16, S.D. 1.

Signed by all members of the Committee.

SCRep. 981 Judiciary on S.R. No. 101

The purpose of this resolution is to request that the Hawaii Small Business Advisory Committee and the Attorney General's office work in consonance to develop equal access to justice legislation for the State of Hawaii.

Your Committee finds that in recent years there has been a proliferation of administrative and judicial actions against small businesses by governmental agencies. Because of the disparity of resources between the government and the small business, too frequently the small business chooses a course of action dictated by economic necessity, rather than principles of law. Equal access to justice legislation would afford relief to the vindicated business by awarding attorney's fees and costs to the small business.

Your Committee received favorable testimony from the National Federation of Independent Business, the Hawaii Business League, and others.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 101 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 982 Consumer Protection and Commerce on Gov. Msg. No. 278

Recommending that the Senate advise and consent to the nominations to the Board of Massage of the following:

EVE CLUTE, for a term ending December 31, 1986; and

REX R. BALL, for a term ending December 31, 1983.

Signed by all members of the Committee except Senators Chang, Cayetano, Kuroda and Henderson.

SCRep. 983 Culture and Arts on S.R. No. 78

The purpose of this resolution is to direct the Chairman of the Board of Land and Natural Resources or its appointed designee to enter into negotiations with the Contemporary Arts Center for the purpose of leasing the Linekona School site to the Center as a permanent home for the Contemporary Arts Center.

Your Committee finds that while the Linekona School building has been designated as the replacement for the main State library since 1956, there has never been any funds appropriated for this purpose. Your Committee feels that the money will in all likelihood never be appropriated for this purpose. By placing the Contemporary Arts Center at the Linekona School building, at no cost to the State, the State will be in a better position to move forward with the renovation of the building which the main library is presently situated in.

Your Committee additionally finds that the present home of the Contemporary Arts Center is far too small and unworthy to house such a large and fine collection as that owned by the Center. The need to enhance the development of art in Hawaii is a pressing one. The proposed new home of the Contemporary Arts Center is bounded by the Honolulu Academy of Arts, Thomas Square, and the Neal Blaisdell Center. This area is rapidly developing into one of Honolulu's cultural centers. The implementation of the provisions of this resolution will greatly accelerate this development.

Your Committee has amended the resolution by including the Board of Education into the negotiations between the State and the Contemporary Arts Center. Your Committee has further amended the resolution by making clear the intention of the Senate that the D.L.N.R. has the authority under 171-43.1, H.R.S., to enter into such an agreement with the Contemporary Arts Center. Your Committee has also amended the resolution to make clear that the D.L.N.R. and the B.O.E. shall be involved in the writing of the agreement and seeing to it that the provisions of it are complied with. They will not be required to be involved in the development of programs nor with the maintenance of the endowment fund.

Your Committee has further amended the resolution by making technical nonsubstantive changes.

Your Committee on Culture and the Arts is in accord with the intent and purpose of S.R. No. 78, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 78, S.D. 1.

Signed by all members of the Committee.

SCRep. 984 Culture and Arts on S.C.R. No. 62

The purpose of this concurrent resolution is to direct the Chairman of the Board of Land and Natural Resources or its appointed designee to enter into negotiations with the Contemporary Arts Center for the purpose of leasing the Linekona School site to the Center as a permanent home for the Contemporary Arts Center.

Your Committee finds that while the Linekona School building has been designated as the replacement for the main State library since 1956, there has never been any funds appropriated for this purpose. By placing the Contemporary Arts Center at the Linekona School building, at no cost to the State, the State will be in a better position to move forward with the renovation of the building which the main library is presently situated in.

Your Committee additionally finds that the present home of the Contemporary Arts Center is far too small and unworthy to house such a large and fine collection as that owned by the Contemporary Arts Center. The need to enhance the development of art in Hawaii is a pressing one. The proposed new home of the Contemporary Arts Center is bounded by the Honolulu Academy of Arts, Thomas Square, and the Neal Blaisdell Center. This area is rapidly developing into one of Honolulu's cultural centers. The implementation of the provisions of this resolution will greatly accelerate this development.

Your Committee has amended the concurrent resolution by including the Board of Education into the negotiations between the State and the Contemporary Arts Center. Your Committee has further amended the concurrent resolution by making clear the intention of the Legislature that the D.L.N.R. has the authority under 171-43.1, H.R.S., to enter into such an agreement with the Contemporary Arts Center. Your Committee has also amended the concurrent resolution to make clear that the D.L.N.R. and the B.O.E. shall be involved in the writing of the agreement and seeing to it that the provisions of it are complied with. They will not be required to be involved in the development of programs nor with the maintenance of the endowment fund.

Your Committee has further amended the concurrent resolution by making technical nonsubstantive changes.

Your Committee on Culture and the Arts is in accord with the intent and purpose of S.C.R. No. 62, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 62, S.D. 1.

Signed by all members of the Committee.

SCRep. 985 Ways and Means on H.B. No. 72

The purpose of this bill is to establish a nursing home without walls demonstration project under the department of social services and housing to provide extended home services to certain persons who are chronically ill and disabled patients who are certified as requiring skilled nursing or intermediate level care.

Your Committee agrees that the development of more economical methods of home care services should be the primary focus of state action, and that extended home care services are intended to serve as a single point of entry and access to a comprehensive and coordinated program of care for the aged and chronically ill. Toward this goal, this bill:

- (1) Provides that the demonstration project be limited to the island of Oahu from July 1, 1983, to June 30, 1985;
- (2) Specifies that patient eligibility and the patient care expenditure ceiling be based on the pertinent aspects of the Medicaid program;
- (3) Computes the patient care expenditure ceiling on an annual basis;
- (4) Provides that patients may accrue "paper credits" for funds not utilized under the patient care expenditure ceiling which may be applied against later higher service requirements;
- (5) Establishes a total project expenditure ceiling at not more than 75 per cent of the Medicaid cost of serving the project's patients;
- (6) Provides that services should be those economically feasible, including the use of informal care providers, contracted agency and individual providers, and project personnel;
- (7) Establishes a project advisory council;
- (8) Exempts the project from licensing or certification requirements of the department of health or the state health planning and development agency;
- (9) Requires the adoption of appropriate rules; and
- (10) Exempts project personnel from civil service provisions.

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

H.B. No. 72, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 986 Ecology, Environment and Recreation on Gov. Msg. No. 108

Recommending that the Senate advise and consent to the nominations to the Board of Certification of Operating Personnel in Wastewater Treatment Plants of CHARLES M. SAIKI, FRANK G. STONE, JR., REGINALD YOUNG, D.Sc., and DENNIS TULANG, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 987 Government Operations and County Relations on S.C.R. No. 25

The purpose of this concurrent resolution is to request the Mayor of the City and County of Honolulu, and the Honolulu City Council to have the Department of Land Utilization revoke Conditional Use Permit Resolution 77-104 granted to K-POI, and to have the radio tower removed.

Currently, K-POI is operating their radio tower in Kalihi Valley under a conditional use permit. One of the conditions of the permit states that if the tower causes prolonged interference with the public's radio and television reception, then K-POI shall be required to correct the problem or discontinue the use of the transmission tower and remove it at their expense.

Public hearings, including a Senate hearing conducted on March 24, 1983, as well as surveys, petitions, and individual complaints have evidenced that interference has occurred and has continued since the tower's existence. This interference has affected the residents' operations of radios, televisions, telephone, video recorders, tape recorders and other electronic equipment.

Your Committee finds that the conditional use permit has been continually violated by K-POI and they continue to operate in clear violation of the condition of no electronic interference. Furthermore, remedial action taken by K-POI has not eliminated the interference problem.

Your Committee further finds the Department of Land Utilization has been inept in acting to revoke the permit. The fact of continuous electronic interference has been undeniably established and there is no further need to spend taxpayer funds for additional surveys reviewing the impact of the tower on the 1,400 residential properties that may be affected.

Your Committee finds that the residents have been inconvenienced and denied their right to enjoy the use of their electronic equipment free of disturbance during the past seven years.

Your Committee is in agreement that there is justification for the tower's removal, and in sympathy with the residents' plight, requests that the Mayor and City Council direct the Department of Land Utilization to revoke K-POI's conditional use permit immediately.

The concurrent resolution has been amended to include other pertinent facts to reinforce the problems experienced by the residents of Kalihi Valley.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.C.R. No. 25, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 25, S.D. 1.

Signed by all members of the Committee except Senator Hagino.

SCRep. 988 Government Operations and County Relations on S.R. No. 33

The purpose of this resolution is to request the Mayor of the City and County of Honolulu, and the Honolulu City Council to have the Department of Land Utilization revoke Conditional Use Permit Resolution 77-104 granted to K-POI, and to have the radio tower removed.

Currently, K-POI is operating their radio tower in Kalihi Valley under a conditional use permit. One of the conditions of the permit states that if the tower causes prolonged interference with the public's radio and television reception, then

K-POI shall be required to correct the problem or discontinue the use of the transmission tower and remove it at their expense.

Public hearings, including a Senate hearing conducted on March 24, 1983, as well as surveys, petitions, and individual complaints have evidenced that interference has occurred and has continued since the tower's existence. This interference has affected the residents' operations of radios, televisions, telephone, video recorders, tape recorders and other electronic equipment.

Your Committee finds that the conditional use permit has been continually violated by K-POI and they continue to operate in clear violation of the condition of no electronic interference. Furthermore, remedial action taken by K-POI has not eliminated the interference problem.

Your Committee further finds the Department of Land Utilization has been inept in acting to revoke the permit. The fact of continuous electronic interference has been undeniably established and there is no further need to spend taxpayer funds for additional surveys reviewing the impact of the tower on the 1,400 residential properties that may be affected.

Your Committee finds that the residents have been inconvenienced and denied their right to enjoy the use of their electronic equipment free of disturbance during the past seven years.

Your Committee is in agreement that there is justification for the tower's removal, and in sympathy with the residents' plight, requests that the Mayor and City Council direct the Department of Land Utilization to revoke K-POI's conditional use permit immediately.

The resolution has been amended to include other pertinent facts to reinforce the problems experienced by the residents of Kalihi Valley.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.R. No. 33, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 33, S.D. 1.

Signed by all members of the Committee except Senator Hagino.

SCRep. 989 Consumer Protection and Commerce on S.R. No. 122

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study of the advisability of establishing a board under the Department of Commerce and Consumer Affairs to license physical therapists and physical therapist assistants and regulate the practice of physical therapy.

Your Committee finds that a study should be conducted to determine if a board to regulate the practice of physical therapy is necessary to provide the best protection for patients who undergo physical therapy before enacting a law establishing such a board.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 122 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt and Yamasaki.

SCRep. 990 Consumer Protection and Commerce on S.C.R. No. 101

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study of the advisability of establishing a board under the Department of Commerce and Consumer Affairs to license physical therapists and physical therapist assistants and regulate the practice of physical therapy.

Your Committee finds that a study should be conducted to determine if a board to regulate the practice of physical therapy is necessary to provide the best protection for patients who undergo physical therapy before enacting a law establishing such a board.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 101 and recommends its adoption.

Signed by all members of the Committee except Senators Carpenter, Cayetano, Holt and Yamasaki.

SCRep. 991 Education on Gov. Msg. Nos. 230, 264 and 280

Recommending that the Senate advise and consent to the nominations of the following:

FLORA M. SHOTA and SHARON BAZZELL to the Library Advisory Commission, County of Kauai, for terms ending December 31, 1986;

KERRY YUKIO OGAWA to the Library Advisory Commission, County of Maui, for a term ending December 31, 1983;

EDWIN T. SILVA, PENNY LOU ENDO and HARRIET ANNE BORTON to the Library Advisory Commission, County of Maui, for terms ending December 31, 1986;

HIDEO KUNIYOSHI to the Library Advisory Commission, County of Hawaii, for a term ending December 31, 1983; and

DIANA B. KAHLER to the Library Advisory Commission, County of Hawaii, for a term ending December 31, 1986.

Signed by all members of the Committee except Senator Holt.

SCRep. 992 Education on S.C.R. No. 98

The purpose of this concurrent resolution is to urge the U.S. Navy to expeditiously complete the administrative steps necessary to have the site at Salt Lake Boulevard and Arizona Road, Salt Lake, Oahu, declared in "excess" of its needs; to urge the U.S. General Services Administration (GSA) to promptly declare the site surplus, and to urge the GSA to arrange to convey the land to the State of Hawaii on mutually agreeable terms under the Federal Property and Administrative Services Act of 1942 for development of the Salt Lake/Moanalua Community Library.

Your Committee finds that the people in the Salt Lake/Moanalua Community have been waiting for more than ten years for a community library. Your Committee further finds that a library site selection and environmental impact statement prepared for the Department of Accounting and General Services indicates that the preferred site for the library (the intersection of Salt Lake Boulevard and Arizona Road), is currently owned by the U.S. Department of Defense, which has identified it as surplus federal property.

Your Committee finds that prompt and supportive action on the part of the aforementioned federal government agencies to both declare this site "excess" land and to arrange the conveyance of this land to the State of Hawaii would greatly enhance the community of Salt Lake/Moanalua.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 98 and recommends its adoption.

Signed by all members of the Committee except Senator Holt.

SCRep. 993 Education on S.R. No. 115

The purpose of this resolution is to urge the U.S. Navy to expeditiously complete the administrative steps necessary to have the site at Salt Lake Boulevard and Arizona Road, Salt Lake, Oahu, declared in "excess" of its needs; to urge the U.S. General Services Administration (GSA) to promptly declare the site surplus, and to urge the GSA to arrange to convey the land to the State of Hawaii on mutually agreeable terms under the Federal Property and Administrative Services Act of 1942 for development of the Salt Lake/Moanalua Community Library.

Your Committee finds that the people in the Salt Lake/Moanalua Community have been waiting for more than ten years for a community library. Your Committee further finds that a library site selection and environmental impact statement prepared for the Department of Accounting and General Services indicates that the preferred site for the library (the intersection of Salt Lake Boulevard and Arizona Road), is currently owned by the U.S. Department of Defense, which has identified it as surplus federal property.

Your Committee finds that prompt and supportive action on the part of the aforementioned federal government agencies to both declare this site "excess" land and to arrange the conveyance of this land to the State of Hawaii would greatly enhance the community of Salt Lake/Moanalua.

Your Committee on Education concurs with the intent and purpose of S.R. No. 115 and recommends its adoption.

Signed by all members of the Committee except Senator Holt.

SCRep. 994 Education on S.C.R. No. 99

The purpose of this concurrent resolution is to request that the Department of Education's Office of Library Services establish a public library portastucture facility in the Moanalua-Salt Lake area.

Your Committee has been advised that the environmental impact statement prepared by the Department of Accounting and General Services indicates that the best site for the new Moanalua-Salt Lake Community Library will not be available for at least twelve months.

Your Committee finds that the Moanalua-Salt Lake area residents are receiving inadequate library services which can be improved through the use of library portastuctures.

Your Committee further finds that library portastuctures have been used successfully in other cities and that federal funds are available to Hawaii's public library system to establish temporary portastucture library facilities.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 99 and recommends its adoption.

Signed by all members of the Committee except Senator Holt.

SCRep. 995 Education on S.C.R. No. 90

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a feasibility study regarding allowing retirement benefits for teachers who are job-sharing in the Department of Education and who are nearing retirement.

Your Committee finds that teachers nearing retirement age and wishing to ease into retirement from working full time are interested in the job sharing program, but are not currently participating because the reduced salary earnings adversely affect their retirement benefits. Your Committee further finds that a possible solution to this problem would be to allow teachers to contribute an amount to the retirement system based on their full-time salary and to be given a full year's credit toward retirement with their retirement pay to be computed on the basis of their full-time salary.

Your Committee has amended this resolution and its title by specifying that the study be conducted by the Department of Education rather than the Legislative Auditor.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 90, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 90, S.D. 1.

Signed by all members of the Committee except Senator Holt.

SCRep. 996 Economic Development on S.C.R. No. 118

The purpose of this concurrent resolution is to urge reauthorization of the National Aquaculture Act of 1980.

The National Aquaculture Act of 1980 was originally authorized through fiscal year 1983, and Congress is presently considering holding reauthorization hearings before May of this year. Your Committee finds aquaculture to be an environmentally sound, energy-efficient food production alternative which is especially appropriate for Hawaii, in that it promotes Hawaii's food production self-sufficiency, creates new jobs, broadens the state tax base, and fulfills long-term state goals.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 118 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 997 Economic Development on S.C.R. No. 111

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to conduct a study on the feasibility of Hawaii becoming a center for the insurance business.

Your Committee notes that the insurance industry is one of the faster growing service industries within the United States. This growth is evidenced by the fact that total sales of life insurance rose from \$206.8 billion in 1970 to \$596.7 billion in 1980.

Your Committee finds that the State's economy would be enhanced by providing a conducive business climate for insurance sales such that insurance companies would choose to locate their headquarters in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 111 and recommends its adoption.

Signed by all members of the Committee except Senator Holt.

SCRep. 998 Economic Development on S.R. No. 142

The purpose of this resolution is to request the Department of Planning and Economic Development to conduct a study on the feasibility of Hawaii becoming a center for the insurance business.

Your Committee notes that the insurance industry is one of the faster growing service industries within the United States. This growth is evidenced by the fact that total sales of life insurance rose from \$206.8 billion in 1970 to \$596.7 billion in 1980.

Your Committee finds that the State's economy would be enhanced by providing a conducive business climate for insurance sales such that insurance companies would choose to locate their headquarters in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 142 and recommends its adoption.

Signed by all members of the Committee except Senator Holt.

SCRep. 999 (Joint) Transportation and Judiciary on H.B. No. 187

The purpose of this bill is to establish more effective sanctions for driving under the influence of intoxicating liquor. Additionally, it provides that a conviction for driving under the influence of intoxicating liquor which occurred prior to the enactment of this measure may qualify as a "prior conviction" for the purpose of increasing penalties established by this measure.

Presently, the law provides for the following penalties:

- (1) For a first time offense, or any offense not preceded by a similar conviction within four years:
 - a. A fourteen hour alcohol abuse rehabilitation program; and
 - b. Any two of the following:
 - i. 72 hours of community service;
 - ii. 30-day suspension of license;
 - iii. 48 hours of imprisonment.
- (2) For an offense preceded by a similar conviction within four years, any two of the following:
 - a. A fine of \$250-\$1,000, or 72-150 hours of community service;
 - b. 90-day suspension of license;
 - c. 2-10 days of imprisonment.
- (3) For an offense preceded by two similar convictions within four years:

- a. A fine of \$500-\$1,000; and
- b. 1-5 year revocation of license; and
- c. 10-180 days of imprisonment.

As proposed by this measure, the penalties shall be as follows:

- (1) For a first offense, or any offense not preceded by a similar conviction within five years:
 - a. A fourteen-hour alcohol abuse rehabilitation program; and
 - b. 90-day unconditional suspension of license; and
 - c. Any one or more of the following:
 - i. 72 hours of community service;
 - ii. 48 or more hours of imprisonment;
 - iii. \$150-\$1,000 fine.
- (2) For an offense preceded by a similar conviction within five years:
 - a. One-year suspension of license; and
 - b. Any one of the following:
 - i. 10 days of community service;
 - ii. 48 or more consecutive hours of imprisonment;
 - iii. \$500-\$1,000 fine.
- (3) For an offense preceded by two similar convictions within five years:
 - a. \$500-\$1,000 fine; and
 - b. 1-5 year revocation of license; and
 - c. 10-180 days of imprisonment.

Your Committees received favorable testimony from the Department of Transportation, the Judiciary, the Hawaii Medical Association, the Honolulu Prosecutor's office, and Honolulu Police Department.

Your Committees find that drunken driving is one of the State's most serious and tragic problems. Stronger sanctions, as proposed by this measure, would be an effective deterrent to drunk driving.

Further, your Committees are aware that certain federal funds are available to the State, provided that the State's drunk driving laws conform to federal standards. Your Committees find that this measure would enhance qualification for such federal funds.

Concern was expressed by your Committees that the portion of the bill beginning at line 13 of page 1 pertaining to 0.10% or more of blood/alcohol content, may create an impermissible conclusive presumption of guilt. The Honolulu Prosecutor has submitted a written opinion which states that this measure is constitutionally acceptable.

The Judiciary expressed concern with regard to three specific portions of the bill. These portions and their respective resolutions are as follows:

- (1) "Prompt suspension of license" (page 3, line 13) as opposed to "prompt supervision of license with absolute prohibition from operating a motor vehicle..." (page 2, lines 16-18). It is the Committees' intent that suspension of license shall mean an absolute prohibition from driving during the period of suspension. To do otherwise would decrease the impact and significance of the sanction.
- (2) "...ten days of community service" (page 3, line 16). The Committees intend that this phrase shall mean 80 hours of community service.
- (3) paragraph (4) of subsection (b), which appears on page 4, lines 9-12. Under the existing statute, there is confusion as to the import of similar convictions which occurred prior to the enactment of the existing law. This situation has resulted in inconsistent sentencing practices among the various judges. The purpose of this amendment is to clarify that convictions which occurred prior to the enactment of this measure shall be considered for the purpose of increasing penalties.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 187, H.D. 1, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Cayetano, Holt and Yamasaki.

SCRep. 1000 Agriculture on S.R. No. 127

The purpose of this resolution is to request that the University of Hawaii, through its College of Tropical Agriculture, provide additional assistance to Hawaii's beef producers.

Your Committee finds that the beef cattle industry is a valuable asset to the State and its development should be encouraged. Your Committee further finds that Hawaii's cattle ranchers utilize lands that have few alternative uses and provide tax revenues and employment opportunities which also benefit the State.

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

Signed by all members of the Committee.

SCRep. 1001 Agriculture on S.C.R. No. 104

The purpose of this concurrent resolution is to request that the University of Hawaii, through its College of Tropical Agriculture, provide additional assistance to Hawaii's beef producers.

Your Committee finds that the beef cattle industry is a valuable asset to the State and its development should be encouraged. Your Committee further finds that Hawaii's cattle ranchers utilize lands that have few alternative uses and provide tax revenues and employment opportunities which also benefit the State.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 104 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1002 Agriculture on Gov. Msg. Nos. 82, 162 and 257

Recommending that the Senate advise and consent to the nominations of the following:

KATSUMI HIGA, BARRY BRENNAN, Ph.D., and MARK D. MERLIN, Ph.D., to the Advisory Committee on Pesticides, for terms ending December 31, 1986;

STANLEY T. TOMONO to the Advisory Committee on Agricultural Products, for a term ending December 31, 1984;

DARRYL K.H. CHOY to the Advisory Committee on Pesticides, for a term ending December 31, 1984;

CHARLES Y. NAGAMINE and JAMES K. IKEDA to the Advisory Committee on Pesticides, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 1003 (Majority) Federal Relations on S.C.R. No. 59

The purpose of this concurrent resolution is to request that the Congress of the United States of America disallow additional aid to El Salvador.

Present U.S. policy, as formulated by the Reagan administration, is seeking to fortify Central America's most repressive governments with increasing levels of military aid. These same regimes have failed, and have often flatly refused, to carry out urgently needed reforms that would attack fundamental problems of poverty, malnutrition, disease, and illiteracy which persist in their countries. They have maintained authority by brutal, repressive force.

Your Committee finds that in an era of severe budget cutbacks and recession linked to deficit spending, higher levels of military aid abroad will have substantial social and economic impact at home. The impact will grow even more personal if U.S. troops are dispatched to Central America.

Your Committee has amended this concurrent resolution to further specify the reasons for disallowing additional aid.

Your Committee on Federal Relations concurs with the intent and purpose of S.C.R. No. 59, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 59, S.D. 1.

Signed by all members of the Committee except Senator George.
Senator Kuroda did not concur.

SCRep. 1004 Federal Relations on S.C.R. No. 63

The purpose of this concurrent resolution is to request the United States Senate expeditiously advise and consent to the United States Pacific Islands Friendship Treaties.

Your Committee notes that the United States has negotiated several treaties concerning sovereignty of certain islands of the Pacific with New Zealand, the United Kingdom, and representatives of the Cook Islands, the Tokelau Islands, Tuvalu, the Republic of Kiribati, and the American Samoan Government. Your Committee further notes that although these treaties were reported favorably to the full Senate by the Senate Foreign Relations Committee in early 1982, action has not been taken by the full Senate.

Your Committee finds that these treaties are important links in an enlightened United States Pacific policy, in which Hawaii has very real interests, both economically and socially. Your Committee also finds that further delay in ratification may create understandable concern and resentment among Pacific island nations which will impart negatively upon United States interest in the Pacific, as well as interests of the State of Hawaii.

Your Committee on Federal Relations concurs with the intent and purpose of S.C.R. No. 63 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 1005 Federal Relations on H.C.R. No. 32

The purpose of this House concurrent resolution is to urge the President, the Secretary of State, and the U.S. Congress to work toward the banning of all forms of nuclear weapon testing in the Pacific Basin.

Although atmospheric, outer space, and underwater testing of nuclear weapons have been banned since 1963, nuclear testing continues to occur in the Pacific Basin. Your Committee finds that the potentially hazardous effects of such testing on the well-being of the people and the environment of the Pacific Basin should be averted at all cost, and urges the leaders of our Nation to make every effort to keep the Pacific Basin free of all nuclear weapon testing.

Your Committee on Federal Relations concurs with the intent and purpose of H.C.R. No. 32, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 1006 Federal Relations on H.C.R. No. 33

The purpose of this resolution is to request a ban on the disposal of nuclear waste materials in the Pacific Basin.

During the fission process that splits uranium atoms, unstable particles are emitted that remain dangerously radioactive for thousands of years. Large amounts of radioactive wastes have accumulated over a period of time and are awaiting permanent disposal sites. If exposed to large enough doses, human beings could contract cancer from such materials.

Between 1946 and 1966, large amounts of radioactive materials were discarded near the Farallon Islands located off the California Coast. Research reveals that these materials may be contaminating the food chain, as some fish in the area show high levels of an element that is formed in the breakdown of plutonium.

Your Committee finds that technology has not been developed to ensure the safety

of the population from the disposal of radioactive waste and that we have only recently discovered the long term effect radioactive waste may have on our environment.

Your Committee further finds that the effects of widespread dumping could result in irreversible damage to the ocean environment and the food chain. Therefore, your Committee respectfully requests the banning of all dumping of nuclear materials in the Pacific Basin by the United States and any other country.

Your Committee on Federal Relations concurs with the intent and purpose of H.C.R. No. 33 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 1007 Legislative Management

Informing the Senate that the following have been printed and were distributed to the members of the Senate:

Conf. Com. Rep. Nos. 63 to 78 and Stand. Com. Rep. Nos. 974 to 1006 on April 20, 1983; and

Stand. Com. Rep. Nos. 1008 to 1049 on April 21, 1983 at the 11:30 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 1008 (Joint) Agriculture and Consumer Protection and Commerce on S.C.R. No. 74

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a study on the ramifications of transferring the weights and measures function of the Department of Agriculture to the Department of Commerce and Consumer Affairs.

Historically, since 1840 when Hawaii's first weights and measures law was enacted, the State has encountered problems assigning the administration of this function to a government agency on a permanent basis.

Presently, Hawaii's weights and measures laws are administered by the Department of Agriculture. Your Committees find that protecting consumers against fraud and misrepresentation of merchandise and services which involve weights or measures may be better served under the Department of Commerce and Consumer Affairs.

However, to avoid the confusion and instability long associated with agencies charged with administering the weights and measures laws, your Committees also find it prudent and to the best interest of the State and those involved, that the Legislative Auditor first conduct a study not only to identify pertinent problems and considerations connected with such a transfer but to also advise the Legislature on which agency or department is best suited to carry out this function.

Your Committees on Agriculture and Consumer Protection and Commerce concur with the intent and purpose of S.C.R. No. 74 and recommend its adoption.

Signed by all members of the Committees except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 1009 (Joint) Agriculture and Consumer Protection and Commerce on S.R. No. 95

The purpose of this resolution is to request the Legislative Auditor to conduct a study on the ramifications of transferring the weights and measures function of the Department of Agriculture to the Department of Commerce and Consumer Affairs.

Historically, since 1840 when Hawaii's first weights and measures law was enacted, the State has encountered problems assigning the administration of this function to a government agency on a permanent basis.

Presently, Hawaii's weights and measures laws are administered by the Department of Agriculture. Your Committees find that protecting consumers against fraud and misrepresentation of merchandise and services which involve weights or measures may be better served under the Department of Commerce and Consumer Affairs.

However, to avoid the confusion and instability long associated with agencies charged with administering the weights and measures laws, your Committees also find it prudent and to the best interest of the State and those involved, that the Legislative Auditor first conduct a study not only to identify pertinent problems and considerations connected with such a transfer but to also advise the Legislature on which agency or department is best suited to carry out this function.

Your Committees on Agriculture and Consumer Protection and Commerce concur with the intent and purpose of S.R. No. 95 and recommends referral to Legislative Management.

Signed by all members of the Committees except Senators Carpenter, Cayetano, Holt, Henderson and Soares.

SCRep. 1010 Agriculture on S.C.R. No. 58

The purpose of this concurrent resolution is to request that the Hawaii delegation to the United States Congress actively seek an exemption of Hawaii from the new federal law requiring monetary assessment of dairy farmers from the gross proceeds of each 100 pounds of milk marketed commercially.

Your Committee finds that as of April 16, 1983, an amendment to the Agriculture Act of 1949 was enacted requiring an assessment of fifty cents from the gross proceeds of each 100 pounds of milk marketed commercially.

This law was enacted to provide a disincentive for mainland farmers who currently produce ten percent more milk than the nation can consume. Your Committee recognizes the justification for this milk "tax" on dairy farmers who produce products in the continental United States, but feels Hawaii milk producers should be exempt from this tax for several reasons.

These reasons are (1) milk is highly regulated by the State, and dairy farmers are on a quota system which is determined by the fresh fluid needs of Hawaii's consumers; (2) all Hawaiian milk is consumed in Hawaii; and (3) Hawaii's dairy industry is strictly a fresh milk industry which does not produce other dairy products.

Your Committee finds that the new law is illogical and inequitable to the dairy farmers of Hawaii because it penalizes them when in fact they are not contributing to the milk surplus in the rest of the nation.

Your Committee has amended the resolution by deleting all references to a second provision of the new law. This provision stated that if the nationwide surplus of milk exceeds a certain limit, an additional fifty cents for every 100 pounds of milk marketed commercially would be assessed. This provision has been postponed indefinitely according to testimony from the Chairman of the Board of Agriculture.

The resolution has also been amended by correctly stating the effective date of the new amendment to the Agricultural Act of 1949 as April 16, 1983 rather than December, 1982. Your Committee has also made technical changes which have no substantive effect.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 58, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 58, S.D. 1.

Signed by all members of the Committee except Senators Fernandes Salling, Toguchi and Henderson.

SCRep. 1011 Agriculture on S.R. No. 73

The purpose of this resolution is to request that the Hawaii delegation to the United States Congress actively seek an exemption of Hawaii from the new federal law requiring monetary assessment of dairy farmers from the gross proceeds of each 100 pounds of milk marketed commercially.

Your Committee finds that as of April 16, 1983, an amendment to the Agriculture Act of 1949 was enacted requiring an assessment of fifty cents from the gross proceeds of each 100 pounds of milk marketed commercially.

This law was enacted to provide a disincentive for mainland farmers who currently produce ten percent more milk than the nation can consume. Your Committee

recognizes the justification for this milk "tax" on dairy farmers who produce products in the continental United States, but feels Hawaii milk producers should be exempt from this tax for several reasons.

These reasons are (1) milk is highly regulated by the State, and dairy farmers are on a quota system which is determined by the fresh fluid needs of Hawaii's consumers; (2) all Hawaiian milk is consumed in Hawaii; (3) and Hawaii's dairy industry is strictly a fresh milk industry which does not produce other dairy products.

Your Committee finds that the new law is illogical and inequitable to the dairy farmers of Hawaii because it penalizes them when in fact they are not contributing to the milk surplus in the rest of the nation.

Your Committee has amended the resolution by deleting all references to a second provision of the new law. This provision stated that if the nationwide surplus of milk exceeds a certain limit, an additional fifty cents for every 100 pounds of milk marketed commercially would be assessed. This provision has been postponed indefinitely according to testimony from the Chairman of the Board of Agriculture.

The resolution has also been amended by correctly stating the effective date of the new amendment to the Agricultural Act of 1949 as April 16, 1983 rather than December, 1982. Your Committee has also made technical changes which have no substantive effect.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 73, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 73, S.D. 1.

Signed by all members of the Committee except Senators Fernandes Salling, Toguchi and Henderson.

SCRep. 1012 Ecology, Environment and Recreation on S.C.R. No. 82

The purpose of this concurrent resolution is to urge the Environmental Protection Agency and the Hawaii State Department of Health to relax the effluent quality standards for the Hilo-Hamakua Coast sugar industry.

Your Committee finds that the sugar cane farmers and processors on the Hilo-Hamakua Coast provide jobs for about 6,000 people directly and indirectly; that these industries have sustained heavy financial losses in 1981 and 1982 and are continuing to sustain heavy financial losses; and that due to these losses, the farmers and processors are now struggling for survival. Your Committee recognizes that the sugar industry must be maintained if the communities in the area are to be maintained.

Your Committee finds that with regard to the Hilo-Hamakua coast, the soil disposal requirements set for sugar cane farmers and processors by the United States Environmental Protection Agency are tremendously costly compared to the benefits derived by their enforcement.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 82 and recommends its adoption.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1013 Ecology, Environment and Recreation on S.R. No. 107

The purpose of this resolution is to urge the Environmental Protection Agency and the Hawaii State Department of Health to relax the effluent quality standards for the Hilo-Hamakua Coast sugar industry.

Your Committee finds that the sugar cane farmers and processors on the Hilo-Hamakua Coast provide jobs for about 6,000 people directly and indirectly; that these industries have sustained heavy financial losses in 1981 and 1982 and are continuing to sustain heavy financial losses; and that due to these losses, the farmers and processors are now struggling for survival. Your Committee recognizes that the sugar industry must be maintained if the communities in the area are to be maintained.

Your Committee finds that with regard to the Hilo-Hamakua coast, the soil

disposal requirements set for sugar cane farmers and processors by the United States Environmental Protection Agency are tremendously costly compared to the benefits derived by their enforcement.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 107 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1014 Ecology, Environment and Recreation on S.C.R. No. 68

The purpose of this concurrent resolution is to request the United States Army to coordinate efforts to develop an effective fire risk assessment plan with the United States Fish and Wildlife Services, the State Division of Forestry and other appropriate public interest groups, to establish a timetable under which the objectives of this plan are to be met, and to report to the Legislature on the content and usage of the Fire Hazard Management Plan for the Pohakuloa Training Area, Island of Hawaii.

Your Committee recognizes that the United States Army manages field training exercises at the Pohakuloa Training Area (PTA), Island of Hawaii, which includes 100,000 acres of State Property under lease to the United States Department of Defense. Your Committee also recognizes that this area is the critical habitat for several plants on the endangered species list and is highly susceptible to fire, especially during droughts such as the one currently occurring.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 68 and recommends its adoption.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1015 Ecology, Environment and Recreation on S.R. No. 87

The purpose of this resolution is to request the United States Army to coordinate efforts to develop an effective fire risk assessment plan with the United States Fish and Wildlife Services, the State Division of Forestry and other appropriate public interest groups, to establish a timetable under which the objectives of this plan are to be met, and to report to the Legislature on the content and usage of the Fire Hazard Management Plan for the Pohakuloa Training Area, Island of Hawaii.

Your Committee recognizes that the United States Army manages field training exercises at the Pohakuloa Training Area (PTA), Island of Hawaii, which includes 100,000 acres of State Property under lease to the United States Department of Defense. Your Committee also recognizes that this area is the critical habitat for several plants on the endangered species list and is highly susceptible to fire, especially during droughts such as the one currently occurring.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 87 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1016 Ecology, Environment and Recreation on S.C.R. No. 71

The purpose of this concurrent resolution is to request that the State Historic Preservation Officer, in conjunction with the Office of Hawaiian Affairs, coordinate the formation of a special task force to undertake a thorough study of Chapter 6E, Hawaii Revised Statutes, Historic Preservation, to make recommendations for revisions of this chapter and to establish criteria for proposed legislation relating to historic preservation.

Your Committee finds that the needs addressed in this concurrent resolution have been studied and presented to the Legislature in the form of the State Historical Preservation Functional Plan and Technical Reference Document. However, your Committee feels that the formation of a task force to undertake this study may help solve some of the existing problems that have not been thoroughly addressed in the State Functional Plan, and anticipates that this study will improve and enhance the present Historic Preservation Program.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 71 and recommends its adoption.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1017 Ecology, Environment and Recreation on S.R. No. 90

The purpose of this resolution is to request that the State Historic Preservation Officer, in conjunction with the Office of Hawaiian Affairs, coordinate the formation of a special task force to undertake a thorough study of Chapter 6E, Hawaii Revised Statutes, Historic Preservation, to make recommendations for revisions of this chapter and to establish criteria for proposed legislation relating to historic preservation.

Your Committee finds that the needs addressed in this resolution have been studied and presented to the Legislature in the form of the State Historical Preservation Functional Plan and Technical Reference Document. However, your Committee feels that the formation of a task force to undertake this study may help solve some of the existing problems that have not been thoroughly addressed in the State Functional Plan, and anticipates that this study will improve and enhance the present Historic Preservation Program.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 90 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1018 Ecology, Environment and Recreation on S.C.R. No. 93

The purpose of this concurrent resolution is to request the Kokua Makua Ohana, together with representatives of the Department of Land and Natural Resources and the Office of Hawaiian Affairs to conduct a study of the possible uses of the Makua and Kahanahaiki beaches and adjoining lands consistent with the traditional lifestyle of an active ocean and farming economy.

Your Committee has amended the concurrent resolution to focus on land use changes in the area and the impact these changes have had on the community.

Your Committee finds that this community struggle is one of many similar controversies involving the State over the past fifteen years. The issues presented are not new ones, and these problems are likely to arise whenever a land use change occurs in Hawaii.

Your Committee therefore concludes that it is in the best interests of the State that these issues be addressed and resolved soon.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 93, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 93, S.D. 1.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1019 (Joint) Ecology, Environment and Recreation and Hawaiian Programs on S.C.R. No. 56

The purpose of this concurrent resolution is to request that the Department of Land and Natural Resources and the Office of Hawaiian Affairs discuss and study the feasibility of joint planning and management of Hawaiian historic sites situated in the North Kohala district of Hawaii County.

Currently, the Department of Land and Natural Resources has the authority to administer the State's historic preservation program and the Office of Hawaiian Affairs is responsible for assessing the impact of policies and practices of other State agencies on native Hawaiians and Hawaiians.

Your Committee finds that since the policies of the Department of Land and Natural Resources in managing historic sites is of importance to native Hawaiians and Hawaiians, the Office of Hawaiian Affairs in conjunction with the Department should coordinate their activities with regard to the historic sites preservation program.

Your Committee received testimony from the Department of Land and Natural Resources and the Office of Hawaiian Affairs in support of this measure stating that these efforts will lay the foundation for future explorations into the possibility of joint planning and management of the State's historic preservation program.

Your Committees on Ecology, Environment and Recreation and Hawaiian Programs concur with the intent and purpose of S.C.R. No. 56, and recommend its adoption.

Signed by all members of the Committees except Senators Holt and A. Kobayashi.

SCRep. 1020 Ecology, Environment and Recreation on S.R. No. 85

The purpose of this Resolution is to request the Governor to invite a blue ribbon pesticide risk assessment team to Hawaii to evaluate the health effects of recent heptachlor exposure and to appoint a special prosecutor to explore whether a suit should be filed against the Environmental Protection Agency for its actions in the recent heptachlor controversy.

Your Committee is concerned about the ill effects of exposure to the pesticide heptachlor, both existing and long-term, on Hawaii's residents, and is especially concerned about its effects on infants.

Dr. Irving Selikoff and the staff from the Environmental Sciences Laboratory of the Mount Sinai School of Medicine in New York City have provided invaluable assistance to the State of Michigan when it recently experienced problems with PBB food chain contamination. Your Committee believes that such an impartial blue ribbon risk assessment team could provide vital information and assistance to state officials in resolving the problems uncovered during the recent crisis.

Your Committee believes that discussion of a lawsuit against the Environmental Protection Agency is inappropriate. Proposals to invite the Selikoff group to assist in resolving questions and problems should be prospective, comprehensive, and without regard to the determination of culpability. Your Committee has amended the title and substance of this Resolution accordingly.

Your Committee on Ecology, Environment and Recreation is in accord with S.R. No. 85, as amended herein, and recommends that it be adopted in the form attached hereto as S.R. No. 85, S.D. 1.

Signed by all members of the Committee.

SCRep. 1021 Ecology, Environment and Recreation on S.R. No. 89

The purpose of this resolution is to request the Department of Land and Natural Resources to develop a prospectus for an information program which would include the establishment of a permanent Information office within the Department.

Your Committee finds that Hawaii has a unique and fascinating history with many plants, birds, fish and insects which are indigenous only to Hawaii and many of which are listed as endangered species in the 1976 Federal Register. Your Committee received testimony from the Department of Land and Natural Resources stating the great number of requests for printed materials, slides, displays and speakers on current programs.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 89 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1022 Ecology, Environment and Recreation on S.R. No. 81

The purpose of this resolution is to request the U.S. Army Corps of Engineers, Pacific Ocean Division, to report on the Corps' findings relating to problems at the Waianae boat harbor, corrective action which will be taken and the timetable for corrective action.

The Waianae boat harbor was completed by the U.S. Army Corps of Engineers in 1981. The harbor was constructed in accordance with the Corps of Engineers' hydrographic studies and opinions and advice from the local boating community. While the community is generally pleased with the harbor, during certain weather and sea conditions the harbor becomes extremely dangerous due to high surf at the entrance and extreme surge conditions in the harbor. These conditions have already resulted in one death, numerous boat accidents, and extensive property damage.

Your Committee finds that the U.S. Army Corps of Engineers is aware of the problems with the harbor and for the past two years has been monitoring the situation in an attempt to find a permanent solution. Your Committee further finds that the situation merits immediate attention to insure that problems with the Waianae boat harbor are resolved as soon as possible.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 81 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1023 Ecology, Environment and Recreation on S.R. No. 41

The purpose of this resolution is to request the Department of Health to study the safety of chemicals when used in or near residential neighborhoods and whether such chemicals should remain on the market.

Your Committee has heard several bills this session relating to the use of chemicals and their effects on human health. Your Committee recognizes that the missions of the Department of Health and the Department of Agriculture with respect to control of chemical substances may not coincide. Your Committee wishes to emphasize that it recognizes that chemicals do have a role in modern agriculture and wishes to ensure that agriculture in Hawaii continues to be productive, efficient, and profitable. However, growing concerns about the effects of chemical usage on human health require that more stringent controls on such usage than currently exist be considered.

Your Committee has amended the resolution and its title to reflect the Committee's desire for a broader study that would also cover concerns about the contamination of food crops and the water supply by chemical usage. Your Committee has also amended the resolution by including the Department of Agriculture and the University of Hawaii College of Tropical Agriculture and Human Resources as participants in the study.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.R. No. 41, as amended herein, and recommends that it be adopted in the form attached hereto as S.R. No. 41, S.D. 1.

Signed by all members of the Committee.

SCRep. 1024 Ecology, Environment and Recreation on S.R. No. 141

The purpose of this resolution is to request the United States Army Corps of Engineers to conduct a study on neighbor island beach erosion.

A study of the long term patterns of beach erosion and accretion on Oahu, completed through the Hawaii Coastal Zone Management Program, has resulted in an accurate methodology for aerial photographic analysis of trends and cycles of sand movement along Oahu's beaches.

Your Committee finds that the extension of this study to the comparatively undeveloped neighbor island counties would be highly desirable as many problems associated with beach erosion could be prevented before actual development occurs. The completion of this study to achieve Statewide coverage would vastly improve shoreline management by providing government officials with needed information.

Your Committee finds that the United States Army Corps of Engineers may provide financial support to states for planning assistance under the 1974 Water Resources Development Act, and further finds that a study of the neighbor island beaches would be enhanced by the Corps of Engineers professional training, expertise in the subject matter, and financial assistance.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 141 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1025 Agriculture on S.R. No. 102

The purpose of this resolution is to protect Hawaii's diversified agriculture industry by encouraging lending institutions to defer or reduce repayment of loans

made to certain farmers who have been adversely affected by natural disasters, plant diseases or pests, or economic stress.

Your Committee heard supporting testimony from the Department of Agriculture and the Hawaii Farm Bureau, both advocating individual loan restructuring under the conditions stated in this resolution as a viable means to resolve the problem.

Your Committee finds that the State has identified diversified farming, exclusive of sugar and pineapple production, as being a major means of strengthening and diversifying the economy. Loan restructuring for farmers who experience temporary financial hardship for reasons beyond their control, is a valid means of protecting the industry and serves the best interests of the State.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 102 and recommends its adoption.

Signed by all members of the Committee except Senator Henderson.

SCRep. 1026 Economic Development on S.R. No. 137

The purpose of this resolution is to establish standards and criteria by which land use reclassification sought under a land use application before the State Land Use Commission shall constitute the affecting of significant statewide interests.

Your Committee finds that State and county agencies already exercise responsibilities for land use regulation over the same lands in various and sundry ways, and that there is need to delineate the proper roles of the State and counties, not only to provide a method of sharing responsibility for land use regulation, but also to avoid duplication of efforts.

Under this resolution, the Senate Committee on Economic Development would address the issue by studying the application of significant statewide interest standards and criteria in the context of S.B. No. 1082, S.D. 1, or similar legislative proposals, and by distinguishing between land use matters which are of local concern and those which involve a significant statewide interest.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 137 and recommends referral to Legislative Management.

Signed by all members of the Committee except Senator Holt.

SCRep. 1027 Economic Development on H.C.R. No. 21

The purpose of this concurrent resolution is to respectfully urge the President and Congress to establish a component of the Strategic Petroleum Reserve in Hawaii.

Testimony by the Department of Planning and Economic Development indicates that the Reagan Administration policy is to maintain a single Strategic Petroleum Reserve stored in the salt domes of Texas and Louisiana near the Gulf Coast. However, the most recent study indicates that should the Reserve be used even once to remedy a shortage in Hawaii, the total cost would actually be greater than the cost of storing Hawaii's portion of reserves in Hawaii. In addition, delays in delivering petroleum to Hawaii from the Gulf could last from fifty-four to seventy days after recognition of the shortage, which could be disastrous to Hawaii's economy.

Your Committee finds that a single storage facility in the Gulf area does not afford equal treatment for Hawaii, even though Hawaii's taxes help support the Strategic Petroleum Reserve, and that Hawaii's unique vulnerability to oil supply disruption should be recognized as a legitimate factor in deciding to place a storage facility in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 21 and recommends its adoption.

Signed by all members of the Committee except Senators Fernandes Salling and Holt.

SCRep. 1028 Economic Development on S.R. No. 132

The purpose of this resolution is to request that the Department of Planning and

Economic Development conduct a study on the feasibility of developing an under-water cable system capable of transmitting electricity from Maui to consumers on Molokai.

Your Committee finds that residents of Molokai pay electricity costs that are among the highest in the nation, and are continually rising. Despite the high cost, residents experience numerous electrical brownouts and blackouts.

Your Committee further finds that similar projects indicate that a undersea cable may be technically and economically feasible.

Your Committee on Economic Development concurs with the purpose and intent of S.R. No. 132 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1029 Housing and Urban Development on H.C.R. No. 17

The purpose of this House concurrent resolution is to encourage the President and Congress of the United States to support legislation allowing continuation of the use of tax-exempt revenue bonds as the primary source of funds for the Hula Mae mortgage loan program through extension or elimination of the sunset clause of the Mortgage Subsidy Bond Tax Act of 1980. The Mortgage Subsidy Bond Tax of 1980 specifies that tax-exempt revenue bonds, for the purpose of financing mortgage loans, may not be issued after December 31, 1983.

Your Committee finds that the Hula Mae mortgage loan program has been very successful in providing mortgage loans at affordable interest rates. The program will end unless the federal government allows the continued use of tax-exempt revenue bonds.

Your Committee on Housing and Urban Development concurs with the intent and purpose of H.C.R. No. 17 and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1030 Hawaiian Programs on S.C.R. No. 79

The purpose of this concurrent resolution is to urge the President of the United States, the Secretary of the Interior, and the Secretary of Defense and others concerned to declare a moratorium on the transfer of federally owned or controlled lands in Hawaii.

Your Committee finds that federal surplus lands in Hawaii must be identified and questions regarding ownership must be resolved. Your Committee further finds that the Federal-State Task Force on the Hawaiian Homes Commission Act should be given sufficient time to continue and complete their comprehensive review of such lands as they relate to the Hawaiian Homes Commission Act of 1920, as amended, and other pertinent acts.

Your Committee further finds that it is in the State's best interests that the status quo be maintained during the task force review.

Your Committee on Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 79 and recommends its adoption.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 1031 Hawaiian Programs on S.C.R. No. 108

The purpose of this concurrent resolution is to request the continuation of the Legislative Auditor's study of the public land trust and the possible conflicting claims made on the revenues derived from the public land trust.

Act 121, Session Laws of Hawaii 1982, directed the Legislative Auditor to complete an inventory of lands under the public trust and to study related issues. Although the inventory was to have been completed in late 1981, to date the process is still unfinished.

Your Committees concur with the findings and recommendations of the Legislative Auditor that the study needs to be continued until the 1984 Regular Session.

Your Committee on Hawaiian Programs concurs with the intent and purpose of S.C.R. No. 108 and recommend its adoption.

Signed by all members of the Committee.

SCRep. 1032 Consumer Protection and Commerce on S.R. No. 125

The purpose of this resolution is to request the Hawaii Small Business Advisory Committee to coordinate with the National Federation of Independent Business, the Hawaii Business League, the Small Business Association of Hawaii and other business organizations to conduct a survey of their membership to specifically identify these State administrative agency rules and procedures which are unreasonably costly or burdensome to the small business community in particular and business in general.

Your Committee is cognizant that many in the business community have complained of overregulation by the government. The identification of particular areas in which administrative procedures and rules have unreasonably burdened the business community will provide the Legislature with information necessary to address appropriate remedies.

Your Committee amended this resolution by changing the title "Chairperson" to "Chairman" in the last BE IT FURTHER RESOLVED clause and by making technical amendments to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 125, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 125, S.D. 1.

Signed by all members of the Committee.

SCRep. 1033 Consumer Protection and Commerce on S.C.R. No. 60

The purpose of this concurrent resolution is to establish an interim study committee to undertake a review of the Hawaii law and rules relating to the practice of psychology and to recommend appropriate amendments.

Current statutory provisions regulating the practice of psychology are broad and complex, making the task of distinguishing between the practice of psychology and the practice of other closely related behavioral sciences difficult. It is the intent of your Committee through this resolution and S.B. No. 711, S.D. 1, H.D. 1, C.D. 1, to address more specific guidelines for the regulation of the practice of psychology.

Your Committee considered the suggestion of several witnesses that the composition of the interim study committee be amended to include segments of the psychological community which were not specifically provided for. A spokesman for the ad hoc committee, which had participated in establishing the composition and which would be responsible for naming members to the interim study committee, expressed the concern that such amendments might result in a large and unwieldy group.

Your Committee concluded that since principal areas of psychological expertise were included in the composition of the proposed interim study committee, the proposed membership is sufficient. The chairman observed, however, that members selected for the interim committee should include representation from the Veterans Administration and other federally employed psychologists, and that peer groups should have a voice in the designation of individuals to serve.

Your Committee amended this concurrent resolution to include the Chairman of the House Committee on Consumer Protection and Commerce as a recipient of a copy of this concurrent resolution.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 60, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 60, S.D. 1.

Signed by all members of the Committee.

SCRep. 1034 Consumer Protection and Commerce on S.R. No. 75

The purpose of this resolution is to establish an interim study committee to

undertake a review of the Hawaii law and rules relating to the practice of psychology and to recommend appropriate amendments.

Current statutory provisions regulating the practice of psychology are broad and complex, making the task of distinguishing between the practice of psychology and the practice of other closely related behavioral sciences difficult. It is the intent of your Committee through this resolution and S.B. No. 711, S.D. 1, H.D. 1, C.D. 1, to address more specific guidelines for the regulation of the practice of psychology.

Your Committee considered the suggestion of several witnesses that the composition of the interim study committee be amended to include segments of the psychological community which were not specifically provided for. A spokesman for the ad hoc committee, which had participated in establishing the composition and which would be responsible for naming members to the interim study committee, expressed the concern that such amendments might result in a large and unwieldy group.

Your Committee concluded that since principal areas of psychological expertise were included in the composition of the proposed interim study committee, the proposed membership is sufficient. The chairman observed, however, that members selected for the interim committee should include representation from the Veterans Administration and other federally employed psychologists, and that peer groups should have a voice in the designation of individuals to serve.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 75 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1035 Consumer Protection and Commerce on S.C.R. No. 51

The purpose of this concurrent resolution is to request the Department of Commerce and Consumer Affairs to prepare an interim study on problems arising in connection with agreement of sale defaults and to recommend solutions.

Currently, defaults on agreements of sale are on the increase and the problems associated with resolving these defaults present a very complex issue. A study will provide needed information to enable the Legislature to deal with the issue.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 51 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1036 Consumer Protection and Commerce on S.R. No. 66

The purpose of this resolution is to request the Department of Commerce and Consumer Affairs to prepare an interim study on problems arising in connection with agreement of sale defaults and to recommend solutions.

Currently, defaults on agreements of sale are on the increase and the problems associated with resolving these defaults present a very complex issue. A study will provide needed information to enable the Legislature to deal with the issue.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 66 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1037 Consumer Protection and Commerce on S.R. No. 76

The purpose of this resolution is to request the Insurance Commissioner in consultation with the Directors of the Departments of Health, and Social Services and Housing, to conduct a study to determine how private medical insurance may be used to provide affordable long-term care benefits for Hawaii's elderly people.

As a result of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), hospitals participating under Medicaid or Medicare are reimbursed for long-term beds at the rate of \$68 per day, leaving the hospitals with a \$40 per day per bed shortfall which cannot be absorbed or passed on to other patients. This reduction

in Medicare and Medicaid will affect the ability of hospitals to maintain long-term facilities and ultimately affect the health and welfare of Hawaii's elderly patients, unless alternatives are developed to compensate for the shortfalls.

The resolution directs that the study shall focus on the effects of TEFRA on Hawaii's long-term care providers and elderly patients, the availability of and projected need for long-term facilities, methods by which Medicare and Medicaid programs and options may be more fully utilized, the kinds and costs of private medical insurance currently available in the State, and strategies for developing or expanding private medical insurance to meet the long-term care needs of Hawaii's elderly patients and the estimated premium costs thereof.

Your Committee received testimony in support of this resolution from the Department of Commerce and Consumer Affairs, the Department of Social Services and Housing, and the Hawaii Medical Service Association.

The resolution was amended to include members of the insurance industry in the study and to provide that the Insurance Commissioner report to the Legislature twenty days before the convening of the Regular Session of 1985, rather than 1984, to provide the participants in the study additional time to compile the information.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 76, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 76, S.D. 1.

Signed by all members of the Committee except Senator Henderson.

SCRep. 1038 Consumer Protection and Commerce on S.R. No. 57

The purpose of this resolution is to request that the Department of Commerce and Consumer Affairs (DCCA) review the general service practices of T.V. Systems Inc. (TVSI) and make determinations as to disciplinary actions which may be taken against T.V. Systems Inc. to resolve consumer complaints.

Your Committee finds that there have been numerous complaints against TVSI regarding inadequate service, poor and erratic signal quality and strength, and compulsory deposit fees paid by subscribers for mandatory "Smart Converter Boxes."

Your Committee has amended the resolution by:

- (1) Deleting the "WHEREAS" clause in part which recognized the State as the authority that should investigate TVSI, and added another "WHEREAS" clause acknowledging the DCCA's current investigation of TVSI;
- (2) Deleting the directive to the DCCA requesting a determination be made as to whether TVSI's permit should be amended or revoked;
- (3) Extending the reporting deadline for the DCCA from the end of the 1983 session, to twenty days prior to the 1984 session;
- (4) Deleting references to service fees and deposits charged by TVSI; and
- (5) Adding the concerns of the Legislature regarding complaints against TVSI.

TVSI testified before your Committee that in view of the numerous complaints received, the required deadline for existing subscribers of HBO and The Movie Channel to obtain a smart converter box (SCB) was extended indefinitely while this entire policy is being reexamined. Also effective immediately no deposit will be required for a SCB.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 57, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 57, S.D. 1.

Signed by all members of the Committee except Senators Henderson and Soares.

SCRep. 1039 Consumer Protection and Commerce on S.C.R. No. 45

The purpose of this concurrent resolution is to request that the Department of

Commerce and Consumer Affairs review the general service practices of T.V. Systems Inc. (TVSI) and make determinations as to disciplinary actions which may be taken against T.V. Systems Inc. to resolve consumer complaints.

Your Committee finds that there have been numerous complaints against TVSI regarding inadequate service, poor and erratic signal quality and strength, and compulsory deposit fees by subscribers for mandatory "Smart Converter Boxes."

Your Committee has amended the resolution by:

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- (2) Deleting the directive to the DCCA requesting a determination be made as to whether TVSI's permit should be amended or revoked;
- (3) Extending the reporting deadline for the DCCA from the end of the 1983 session, to twenty days prior to the 1984 session;
- (4) Deleting references to service fees and deposits charged by TVSI; and
- (5) Adding the concerns of the Legislature regarding complaints against TVSI.

TVSI testified before your Committee that in view of the numerous complaints received, the required deadline for existing subscribers of HBO and The Movie Channel to obtain a smart converter box (SCB) was extended indefinitely while this entire policy is being reexamined. Also effective immediately no deposit will be required for a SCB.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 45, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 45, S.D. 1.

Signed by all members of the Committee except Senators Henderson and Soares.

SCRep. 1040 Consumer Protection and Commerce on S.R. No. 145

The purpose of this resolution is to request the Department of Commerce and Consumer Affairs and the Department of Taxation to provide for communication between departments to ensure compliance with the laws on licensing of contractors and payment of the general excise tax.

Currently, Chapter 444, Hawaii Revised Statutes, requires all contractors who perform construction work to be licensed by the Contractors License Board under the Department of Commerce and Consumer Affairs. Chapter 237, Hawaii Revised Statutes, provides for a gross excise tax to be levied against the revenues of all businesses.

Your Committee finds that many unlicensed contractors obtain general excise tax licenses. Therefore, coordination between the Department of Taxation and the Department of Commerce and Consumer Affairs will assist in enforcement of the licensing requirements.

The Second Annual Statewide Conference on Small Business noted that coordinated efforts by both departments is necessary to ensure compliance with laws on licensing and taxes. Under this measure, the Contractors License Board will study methods to assist both departments in their efforts.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 145 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1041 Consumer Protection and Commerce on S.C.R. No. 115

The purpose of this concurrent resolution is to request the Department of Commerce and Consumer Affairs and the Department of Taxation to provide for communication between departments to ensure compliance with the laws on licensing of contractors and payment of the general excise tax.

Currently, Chapter 444, Hawaii Revised Statutes, requires all contractors who perform construction work to be licensed by the Contractors License Board under the Department of Commerce and Consumer Affairs. Chapter 237, Hawaii Revised Statutes, provides for a gross excise tax to be levied against the revenues of all businesses.

Your Committee finds that many unlicensed contractors obtain general excise tax licenses. Therefore, coordination between the Department of Taxation and the Department of Commerce and Consumer Affairs will assist in enforcement of the licensing requirements.

The Second Annual Statewide Conference on Small Business noted that coordinated efforts by both departments is necessary to ensure compliance with laws on licensing and taxes. Under this measure, the Contractors License Board will study methods to assist both departments in their efforts.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 115 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1042 Consumer Protection and Commerce on S.R. No. 51

The purpose of this resolution is to request the Real Estate Commission, in conjunction with the Director of Commerce and Consumer Affairs and the Hawaii Bar Association, to conduct an interim study on a residential property transfer code.

Your Committee finds that there is a need for a residential property transfer code because of the potential for serious economic injury to consumers, and the large number of complaints and civil suits filed each year relating to real estate transactions. Under this measure a residential property transfer code would be developed after a period of research and planning, to identify the nature of residential real estate transactions in Hawaii, the kinds of problems commonly associated with such transactions, and alternative ways in which consumer-licensee interactions in these transactions can be mediated.

Your Committee received testimony in support of this measure from the Hawaii Association of Realtors, the Real Estate Commission and the Department of Commerce and Consumer Affairs.

Upon consideration, your Committee has amended the resolution as follows:

- (1) In the fifth WHEREAS clause, by citing the California Ethics and Professional Conduct Code rather than the Landlord-Tenant Code as a possible model;
- (2) By deleting references to "realty boards" and substituting therefor the "Hawaii Association of Realtors", to facilitate the coordination and flow of input since all realty boards are members of the Hawaii Association of Realtors.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 51, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 51, S.D. 1.

Signed by all members of the Committee.

SCRep. 1043 Consumer Protection and Commerce on S.C.R. No. 33

The purpose of this concurrent resolution is to request the Real Estate Commission, in conjunction with the Director of Commerce and Consumer Affairs and the Hawaii Bar Association, to conduct an interim study on a residential property transfer code.

Your Committee finds that there is a need for a residential property transfer code because of the potential for serious economic injury to consumers, and the large number of complaints and civil suits filed each year relating to real estate transactions. Under this measure a residential property transfer code would be developed after a period of research and planning, to identify the nature of residential real estate transactions in Hawaii, the kinds of problems commonly associated with such transactions, and alternative ways in which consumer-licensee interactions in these transactions can be mediated.

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- (1) In the fifth WHEREAS clause, by citing the California Ethics and Professional Conduct Code rather than the Landlord-Tenant Code as a possible model;
- (2) By deleting references to "realty boards" and substituting therefor the "Hawaii Association of Realtors", to facilitate the coordination and flow of input since all realty boards are members of the Hawaii Association of Realtors.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 33, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 33, S.D. 1.

Signed by all members of the Committee.

SCRep. 1044 Consumer Protection and Commerce on H.C.R. No. 91

The purpose of this concurrent resolution is to request the Insurance Commissioner, in conjunction with representatives of the Hawaii Bar Association, insurance industry and the office of the Legislative Auditor to study the necessity and feasibility of a comprehensive review of the Hawaii insurance laws.

The Hawaii insurance laws may benefit by a new and comprehensive reassessment because the insurance laws are fragmented and, in some cases, out of date.

The Department of Commerce and Consumer Affairs and the Hawaii Insurers Council testified favorably on behalf of the concurrent resolution.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of H.C.R. No. 91 and recommends its adoption.

Signed by all members of the Committee.

SCRep 1045 Tourism on S.R. No. 17

The purpose of this resolution is to request the Senate Committee on Tourism to conduct an interim study to determine the need for and the feasibility of a convention center in the State.

Your Committee held two public hearings on S.R. No. 17 and on a similar measure, S.R. No. 27 in order to solicit a wide range of views and opinions.

At the first hearing held on February 18, 1983, your Committee received testimony from the Department of Planning and Economic Development, the Hawaii Chamber of Commerce, and the City and County of Honolulu, Department of Auditoriums. Also present were representatives of the Hawaii Hotel Association, Waikiki Improvement Association and the Hawaii Visitors Bureau.

Though witnesses were generally in favor of conducting a feasibility study for a convention center, they expressed some concerns with respect to the resolution.

Ms. Marilyn Whiting, Director of Auditoriums for the City and County of Honolulu, stated that for the past two years the Neal Blaisdell Center (NBC) has had an occupancy rate of seventy-five to eighty percent. During this period the NBC has hosted twelve major conventions which had a combined attendance of 82,727 conventioners. In addition, Ms. Whiting points out that convention requests are normally scheduled from one to five years in advance of the time the facilities are needed and the NBC is available to meet the demand.

In light of the testimony presented at this hearing, the Committee reworded the clause referring to the "nonavailability" of the NBC to read "limited capacity" of the NBC.

With regard to the difficulty in transportation and the added burden of convention traffic, Ms. Whiting points out that there has been no significant transportation problems or traffic congestion that has been a direct result of convention activity.

Your Committee has received conflicting information with regard to transportation from the Hawaii Visitors Bureau Convention Committee Chairman who stated that there are considerable logistical problems with the use of many buses for transportation between Waikiki and the NBC. This places an additional financial burden on the conventioneer.

Mr. Donald Bremner of the Waikiki Improvement Association expressed concern that if a multipurpose convention center were to be built in or around Waikiki, the traffic generated may tend to disrupt transportation flow and inconvenience residents, tourists, and businesses in the area.

Mr. Clement Judd representing the Hawaii Hotel Association expressed support for the feasibility study. His concern, however, was that if such a convention facility were to be built, it should be undertaken by the private sector using private capital.

Mr. Kenneth Char of the Hawaii Visitors Bureau testified in support of the convention center study. He pointed to evidence that although Hawaii does capture a share of the convention market, certain large conventions are not brought to Hawaii due to the limited capacity of the present city owned and operated Neal Blaisdell Center facility.

Your Committee held a second public hearing on March 28, 1983 in order to obtain additional information and opinions on the proposed convention center feasibility study.

Your Committee received testimony from the UH School of Travel Industry Management, the Chamber of Commerce, the Hawaii State Association of Counties (HSAC), and the Hawaii Visitors Bureau all supporting the intent of the resolution. In addition, representatives of the Hawaii Hotel Association, the U.S. Department of Housing and Urban Development, the DPED Office of Tourism and members of Congressman Heftel's staff were present as resource personnel.

Mr. Ed Shimizu testified on behalf of the Hawaii State Association of Counties in favor of the resolution. He stated that without an adequate convention center, several major convention groups are discouraged from coming to Hawaii.

In the discussion that followed the Chairman asked why the Department of Planning and Economic Development has not shown interest in studying the concept of the convention center. Mr. Frank Skrivanek responded that a major convention center would be an expensive investment, one that would heavily burden the financial resources of the State.

The Hawaii Hotel Association and the Chamber of Commerce again emphasized that while a feasibility study conducted by the State would be desirable, private resources should be utilized to build and operate a convention center. Mrs. Claire Engle of the Chamber reported that the idea of staging an international exposition in Hawaii in the decade of the 1990's is currently being explored by the Chamber along with other private and public organizations and officials. She pointed out that the decision to sponsor an exposition involves a great deal of planning, community and business participation as well as government support for such financing instruments as revenue bonds. Further, the decision for such an event must be made by the government since the State must ask the U.S. Government for its blessing and apply for an endorsement by the Bureau of International Expositions in Geneva. Finally, Mrs. Engle added that a well-planned affair could attract new business to Hawaii and leave the State with facilities that could be used for other purposes. During such an exposition a convention center could be built with private funds and after the event is concluded this and other structures could become available to the local or State governments at a reasonable cost.

An important issue that has been raised in the past is the site of the proposed convention center. With land at a premium in Honolulu, especially in the Waikiki area, the site selection will be a major planning hurdle. Possible sites that have been reviewed are the Ala Wai Golf Course, Diamond Head Crater, Jefferson Elementary School, and Fort DeRussy.

There appears to be a general feeling that the Jefferson Elementary School site seems to be the most promising location. Since the site is owned by the State and enrollment at this school is experiencing a downward trend, the eventual conversion poses the fewest administrative problems.

Another possible site is the Fort DeRussy property that the Federal government continues to publicly discuss as available surplus land. However, there are problems associated with relocating the military functions at this site, and the question remains whether it is wise to lose this "open space" to greater development.

Additional information was provided after the hearing by architect Gary Chikasuye when he presented a proposal for a convention center on the site of the Ala Wai Golf Course with underground parking and the golf course to be built on a tier.

Your Committee concludes that there is a genuine interest in a study to determine a need for a larger convention center and recommends that the Senate Tourism Committee conduct interim meetings in conjunction with the HSAC Committee and other interested groups.

The study should address itself to questions such as:

- 1) Should there be a convention center in the State of Hawaii?
- 2) If so, how big? (seating capacity, parking, type of facility, etc.)
- 3) What uses should such a center be designed to accommodate?
- 4) What are the source of funds?
- 5) How should the convention center be managed?
- 6) What are the costs vs. the benefits of a convention center on tourism, not only in terms of profitable operation but its overall impact to the visitor industry.

Your Committee amended the resolution by expanding the last Whereas clause to include more detailed information on the Convention Center Hawaii Committee, a group formed for the purpose of evaluating the need for a new or expanded convention center in Hawaii.

Your Committee further amended the resolution to require the Tourism Committee to conduct an interim study which may include public hearings and to submit its findings twenty days prior to the convening of the Regular Session of 1984. In addition, provisions were made for sending certified copies of the resolution to appropriate parties and technical amendments were made which have no substantive effect.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 17, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 17, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1046 Tourism on H.C.R. No. 57

The purpose of this concurrent resolution is to request the commercial and cable networks to include Hawaii in their daily national weather reports. Due to Hawaii's physical separation from Alaska and the mainland, reports of Hawaii's weather are usually omitted from the national weather reports.

Your Committee finds that television shows such as "Good Morning America" and "Today" as well as the networks which report the nation's weather subtly discriminate against Hawaii by their failure to include Hawaii's weather report with the report of the entire nation's weather.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 57 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1047 (Joint) Consumer Protection and Commerce and Human Resources on H.C.R. No. 172

The purpose of this concurrent resolution is to request a comprehensive study by the Legislative Auditor of all causes and other matters, events, organizations, including labor, employers, government, medical and rehabilitation professions and

the insurance industry which affect the cost of workers' compensation in Hawaii, with a special emphasis upon ways to reduce or stabilize costs while at the same time maintaining benefits at existing levels, or ideally providing increased benefits at reduced employers' cost.

Your Committees received testimony from the Department of Labor and Industrial Relations, the Insurance Commissioner of the Department of Commerce and Consumer Affairs, the Hawaii Business League, the National Federation of Independent Business, and other interested parties, in support of this measure. All parties recognized the urgent need to address the workers' compensation issue.

The concurrent resolution requests an interim report to be submitted twenty days before the convening of the 1984 Legislature and a final report to be submitted twenty days before the convening of the 1985 Legislature. The interim report will include findings and recommendations, which will permit legislative action to be initiated.

Upon consideration of this measure, your Committee amended the first BE IT FURTHER RESOLVED clause to include the phrase "to the extent practicable," after the word "recommendations". Further, the Insurance Commissioner was included as a recipient of a certified copy of the concurrent resolution.

Your Committees on Consumer Protection and Commerce and Human Resources concur with the intent and purpose of H.C.R. No. 172, H.D. 1, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 172, H.D. 1, S.D. 1.

Signed by all members of the Committees except Senators Aki, Cayetano, Yamasaki, Young and A. Kobayashi.

SCRep. 1048 Youth and Elderly Affairs on S.R. No. 136

The purpose of this resolution is to request the Department of Social Services and Housing's Oahu Children's Protective Services Advisory Committee to conduct a study to review the appropriate state agencies to provide child abuse and neglect prevention services and develop a policy that will provide direction for establishing programs, setting priorities, and allocating resources.

Your Committee finds that child abuse and neglect is a serious public health problem in the State and preventive efforts have proven highly cost-effective in reducing predicted levels of abuse and averting the cost of subsequent rehabilitation for children and parents.

Your Committee on Youth and Elderly Affairs concurs with the intent and purpose of S.R. No. 136 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1049 (Joint) Federal Relations and Ecology, Environment and Recreation on S.R. No. 61

The purpose of this resolution is to request the State to aggressively pursue an agreement with the United States Navy whereby the State would be immediately notified of occurrences such as leaks of radioactive material into Pearl Harbor and be permitted to perform independent monitoring immediately after such accidents occur, and to perform independent monitoring on a regular basis.

The fact that Pearl Harbor is a center of American military activity in the Pacific renders it susceptible to accidents involving radioactive material which could be potentially disastrous to the environment and the people of Hawaii. Because a radioactive incident could affect the health of all the citizens of the State your Committee finds that the responsibility for radiological monitoring at Pearl Harbor should not be left solely to the Federal government.

Your Committees on Federal Relations and Ecology, Environment and Recreation concur with the intent and purpose of S.R. No. 61 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1050 Legislative Management

Informing the Senate that the following have been printed and were distributed to

the members of the Senate:

Stand. Com. Rep. Nos. 1051 and 1060 on April 22, 1983 at the 11:00 o'clock a.m. Session.

Signed by all members of the Committee.

SCRep. 1051 Youth and Elderly Affairs on S.R. No. 126

The purpose of this resolution is to develop a policy and provide guidelines for the development of a state Long Term Care Plan for the elderly and to designate the responsible state agencies.

Currently, the State supports a wide range of long term care services for Hawaii's elderly, but lacks a comprehensive master plan to provide direction in establishing programs, setting priorities, and allocating resources.

The Long Term Care Planning Group (LTCPG), whose members were appointed by the governor and represent key public and private agencies, in conjunction with community organizations and consumer-oriented persons, has developed a set of policy guidelines which your Committee finds to be appropriate for the task at hand.

Your Committee has received favorable testimony from various organizations including the Departments of Health and Social Services and Housing and the Executive Office on Aging.

Your Committee on Youth and Elderly Affairs concurs with the intent and purpose of S.R. No. 126 and recommends its adoption.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 1052 Housing and Urban Development on S.R. No. 79

The purpose of this bill is to request the Committee on Housing and Urban Development to conduct a comprehensive study of other states' leasehold laws, with particular attention paid to the Maryland real property lease law.

Your Committee finds that in light of the recent ruling by the United States Court of Appeals for the Ninth Circuit, which found Hawaii's Land Reform Act unconstitutional, and the lengthy time period necessary to appeal that decision, it will be in the best interest of the people of this State to have the Legislature review other alternatives which will allow its people to own their homes in fee simple.

Your Committee further finds that a review of the renegotiation processes of property leases covered under Chapters 516 and 519, Hawaii Revised Statutes, is needed due to certain inequities which exist under the current statutes.

Your Committee has amended the resolution to include a review of the renegotiation processes under Chapters 516 and 519 and has amended the title of the resolution to appropriately reflect the expanded scope of the study.

Your Committee on Housing and Urban Development concurs with the intent and purpose of S.R. No. 79, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 79, S.D. 1.

Signed by all members of the Committee except Senators Holt and Yamasaki.

SCRep. 1053 Housing and Urban Development on S.R. No. 94

The purpose of this resolution is to request that the Hawaii Housing Authority (HHA) prepare a status report on the vacant property located in Waipahu, commonly referred to as the "Crown Property" site. This report is to include a review of:

- (1) the suitability of the land for use as a community services center;
- (2) possible alternative sites for the community center;
- (3) the status of discussions between the Department of Accounting and General

Services (DAGS), HHA, and the Waipahu community regarding the Crown Property site;

- (4) the unsolved problems and issues that may be delaying the decision for the community services center; and
- (5) alternative uses for the Crown Property site if it is found to be unacceptable as a location for the community services center.

In 1975, HHA purchased the site, a twenty-two acre vacant parcel of land in Waipahu, for \$5,350,000, and has subsequently expended \$636,681, on a soil stabilization study and surcharge work. Should the property be developed as a community services center, DAGS would need to purchase the site from HHA.

HHA testified in favor of this resolution but recommended an amendment that would hold the Authority responsible only for preparing the report on the community services center as it related to the "Crown Property" as a site therefor. DAGS will be responsible for preparing the report addressing the other concerns raised by the resolution.

Your Committee agrees with the recommendation of the Authority and has amended S.R. No. 94 to reflect the division of responsibilities of the status report between the Hawaii Housing Authority and the Department of Accounting and General Services. Your Committee has further amended the bill by changing the title to reflect the division of duties proposed in the above amendment.

Your Committee on Housing and Urban Development concurs with the intent and purpose of S.R. No. 94, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 94, S.D. 1.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1054 Housing and Urban Development on S.R. No. 100

The purpose of this resolution is to request the Hawaii Housing Authority to prepare a status report on the Waiahole Valley Project. The report is to include a review of: (1) the status of the project, (2) the need to obtain additional funding for construction, (3) the feasibility of recovering funds expended by the Authority's Dwelling Unit Revolving Fund, and (4) the feasibility of assigning the management of the agricultural park to the Department of Land and Natural Resources or the Department of Agriculture.

In 1977, the Hawaii Housing Authority purchased approximately 600 acres in Waiahole Valley for \$6,000,000. The funds for the purchase were expended out of the Authority's Dwelling Unit Revolving Fund (DURF).

As Waiahole Valley is currently being developed primarily as an agricultural park, and DURF was intended to be substantially self-supporting and used for the development of housing projects, it would be appropriate at this time to review the considerations raised by this resolution, particularly the feasibility of recovering the funds expended by DURF.

Your Committee on Housing and Urban Development concurs with the intent and purpose of S.R. No. 100 and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1055 Hawaiian Programs on S.R. No. 104

The purpose of this resolution is to request that the Department of Budget and Finance assist the Department of Hawaiian Home Lands in carrying out the latter department's trust responsibilities by establishing a comprehensive financial accounting system.

Your Committee heard testimonies from the directors of the Departments of Budget and Finance and Hawaiian Home Lands who both agreed with the intent of the resolution. The directors, nevertheless, indicated that the Department of Accounting and General Services (DAGS) is the appropriate agency to be responsible for establishing a financial accounting system for the Department of Hawaiian Home Lands. The DAGS had been contacted and agreed to perform the task suggested herein.

Your Committee adopted the recommendation of both directors by amending the title and the body of the resolution to substitute the Department of Accounting and General Services for the Department of Budget and Finance as the agency to establish the financial accounting system.

Your Committee on Hawaiian Programs concurs with the intent and purpose of S.R. No. 104, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 104, S.D. 1.

Signed by all members of the Committee except Senators Machida and Uwaine.

SCRep. 1056 Judiciary on S.R. No. 99

The purpose of this resolution is to request that the Legislative Reference Bureau conduct a study of the rules and regulations of the various departments of the State of Hawaii to determine compliance with the equality of rights amendment to the State Constitution.

Your Committee finds that rules and regulations promulgated by the various state departments have not been conformed to the requirements of the equality of rights amendment to the State Constitution, which was ratified in 1972. This resolution will provide the impetus toward fulfillment of the 1972 constitutional amendment.

Your Committee received favorable testimony from the Department of Labor and Industrial Relations, the Hawaii Council of Churches, and the League of Women Voters in Hawaii.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 99 and recommends its referral to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1057 Hawaiian Programs on S.R. No. 135

The purpose of this resolution is to request the continuation of the Legislative Auditor's study of the public land trust and the possible conflicting claims made on the revenues derived from the public land trust.

Act 121, Session Laws of Hawaii 1982, directed the Legislative Auditor to complete an inventory of lands under the public trust and to study related issues. Although the inventory was to have been completed in late 1981, to date the process is still unfinished.

Your Committee concurs with the findings and recommendations of the Legislative Auditor that the study needs to be continued until the 1984 Regular Session.

Your Committee on Hawaiian Programs concurs with the intent and purpose of S.R. No. 135 and recommend its referral to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1058 Health on S.R. No. 128

The purpose of this resolution is to initiate a project to study the problems resulting from the decrease of federal funding support for long-term care facilities in hospitals.

Under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), hospitals participating in the medicare and medicaid programs are reimbursed at the rate of \$68 per day for long-term beds, even though the average cost of the beds is \$108 per day. Your Committee finds that this situation may compel hospitals to begin eliminating their long-term facilities, which would ultimately affect the health and welfare of Hawaii's elderly and low income patients.

This resolution addresses the long-term care problem by convening a discussion group, made up of major State agencies and public and private medical facilities, for the purpose of studying, among other things, the location and cost of all long-term beds currently available in the State, the present and projected need for long-term facilities, and the effects of TEFRA on the ability of Hawaii's health providers to meet such needs and contain costs.

Your Committee heard supporting testimony by the Department of Health, The Department of Social Services and Housing, Kokua Council for Senior Citizens, and the Hospital Association of Hawaii.

Your Committee on Health concurs with the intent and purpose of S.R. No. 128 and recommends its referral to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1059 (Joint) Health, Human Resources and Youth and Elderly Affairs on S.R. No. 121

The purpose of this resolution is to request the Senate Committees on Health, Human Resources, and Youth and Elderly Affairs to jointly review the functions of Hawaii's public and private human services providers in order to determine their goals and objectives, identify duplication of services, and establish priorities for future legislative fundings, and to determine whether Act 207 is being properly implemented.

Most public and private human service agencies require some degree of state or federal funding to maintain operations, but now that federal funding has been substantially cut, these agencies must increase their dependence on the State. Act 207 provided guidelines and methods for awarding grants, subsidies, and purchases of service to human service providers. Your Committees, after considering supporting testimony from Kokua Council for Senior Citizens and the Statewide Human Services Action Council, find that a comprehensive review of the entire range of human services is necessary to prioritize services and funding, reduce and eliminate duplication of services, and develop strategies to strengthen Act 207.

Your Committees on Health, Human Resources, and Youth and Elderly Affairs concur with the intent and purpose of S.R. No. 121 and recommend that it be referred to the Committee on Legislative Management.

Signed by all members of the Committees.

SCRep. 1060 Education on S.R. No. 119

The purpose of this resolution is to request the Board of Education to examine the necessity for its frequent meetings and to review its proper role as a policy-making board.

Your Committee is concerned that the Board of Education appears to hold a disproportionate number of meetings each year. While your Committee appreciates such conscientiousness, it also entertains the possibility that such frequency results in inefficient use of time and/or inadvisable exercise of functions. It has come to the attention of your Committee that oftentimes major program documents languish for long periods of time between presentation for updating before final action is taken. For example, the athletics master plan has yet to be approved by the Board while it has taken more piecemeal actions on the athletics program as specific problems have arisen. Your Committee believes that the Board needs to take a broader perspective as to its role.

Your Committee has amended this resolution to include another WHEREAS clause and another BE IT RESOLVED clause to bring specific attention to the athletics program.

Your Committee on Education concurs with the intent and purpose of S.R. No. 119, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 119, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Carpenter, Kuroda and Toguchi.

SCRep. 1061 Legislative Management on S.R. No. 122

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study of the advisability of establishing a board under the Department of Commerce and Consumer Affairs to license physical therapists and physical therapist assistants and regulate the practice of physical therapy.

Your Committee finds that a study should be conducted to determine if a board to

regulate the practice of physical therapy is necessary to provide the best protection for patients who undergo physical therapy before enacting a law establishing such a board.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 122 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1062 Federal Relations on H.C.R. No. 179

The purpose of this concurrent resolution is to express Legislative opposition to the Caribbean Basin Economic Recovery Act (CBERA) and to encourage Hawaii's Congressional delegation to block its passage.

CBERA consists of a three-pronged initiative to promote economic revitalization in the Caribbean Basin countries which included \$350 million in financial aid, a twelve-year period of duty free treatment of Caribbean products imported by the United States, and a program of tax credits and other incentives to induce American firms to invest in Caribbean nations.

Your Committee finds, however, that Hawaii's struggling agricultural industry is highly vulnerable to the effects of a portion of the Act that affords duty-free entry of Caribbean products into the United States.

Additionally serious concern has been expressed regarding the adverse effects of the Act on the American tuna industry which is already depressed with plant closures and layoffs attributable to increasing levels of foreign processed tuna, and Hawaii is among the states that will be affected.

Your Committee on Federal Relations concurs with the intent and purpose of H.C.R. No. 179, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1063 Economic Development on H.B. No. 703

The purpose of this bill is to encourage the generation of electricity from non-fossil fuel sources by providing framework for the setting of rates by the public utilities commission for purchase by electric utilities of alternate energy.

This bill has been heard by your Committee, and we received favorable testimony from the department of planning and economic development, the Wind Power Association of Hawaii, the Hawaii Sugar Planters' Association, Renewable Energy Ventures and Hawaiian Dredging and Construction Company.

Your Committee is in substantial agreement with the reasons for supporting the bill stated in House Standing Committee Report No. 539.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 703, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.