

SPECIAL COMMITTEE REPORT

Spec. Com. Rep. No. 1

Your Joint Interim Committee to Review the State's Capability to Monitor and Prevent Contamination of Water Resources by Pesticides, appointed pursuant to House Resolution No. 593 and Senate Resolution No. 41, both adopted by the Regular Session of 1983, begs leave to report as follows:

COMMITTEE APPROACH

The members of your Joint Interim Committee conducted an informational meeting on November 22, 1983, to review and assess the ability of governmental agencies to effectively and efficiently deal with the contamination of our environmental resources. The objective of this meeting was to gain a better understanding of the pesticide regulation, monitoring and enforcement procedures in Hawaii, especially with respect to the contamination of water resources, and to identify whether any legislative action is needed to improve these procedures.

The format for this informational meeting included an overview presentation of pesticide regulation, monitoring, and enforcement processes in Hawaii and follow-up presentations by individual government agencies directly involved in this process. Agency presentations focused primarily on statutory roles and responsibilities. A period for specific questions and answers followed the presentation.

Recognizing that a number of groups and organizations were interested in the proceedings and in the progress being made toward resolving the problem of pesticide contamination, representatives from many of these groups were invited to attend the meeting for their own informational purposes as well as to serve as a "resource" for Committee members, should assistance be required in clarifying or providing further information.

BACKGROUND

In recent years, several incidents of pesticide contamination have raised serious questions about the health hazards associated with the use of pesticides and the State's ability to protect the public health and safety. These include the discovery of the chemical heptachlor in the local milk supply, presence of endosulfan in locally grown watercress, and the possibility of pesticide-induced health problems among Oahu's Queen's Gate residents.

Most recently, public concern over the potable water quality of wells in the Mililani and Waipahu areas found to be tainted with insecticide-related chemicals has necessitated a number of mitigating actions. These included: the closing of several wells for drinking purposes; the provision of water wagons to supply residents with safe drinking and cooking water; the purging of contaminated wells through the use of experimental aeration towers; and a plan to drill three exploratory water wells in central Oahu to replace the contaminated Mililani wells.

While governmental agencies involved in the pesticide contamination issue pursued what each viewed as appropriate avenues of action, the distinctions regarding agency responsibilities were unclear in the eyes of the public, leading to confusion over reliability of information, testing and analysis procedures, and health and safety concerns.

During the 1983 Legislative session, several resolutions were introduced in both the House and Senate requesting that studies be conducted on the subject of pesticide contamination. These included Senate Resolution No. 41, requesting an assessment of measures that may be taken to avoid the adverse side effects of pesticides; Senate Resolution No. 85 requesting a Setlikoff Laboratory Group to conduct intensive, short-term health studies to evaluate the effects of heptachlor exposure; and House Resolution No. 44 requesting a review of the State's capability to monitor and prevent contamination of water resources and food products by pesticides and hazardous wastes.

On November 22, 1983, members of your Joint Interim Committee received testimony from several governmental agencies on their roles and responsibilities

with regard to the monitoring, testing and control of pesticides in Hawaii. Those testifying included representatives of the Office of Environmental Quality Control (OEQC), Department of Health (DOH), Department of Agriculture (DOA) and the Honolulu Board of Water Supply (BWS). In addition, representatives from the University of Hawaii were also invited to testify, including the College of Tropical Agriculture and Human Resources (CTAHR), the Pesticide Hazard Assessment Project (PHAP) and the Water Resource Research Center (WRRC).

FINDINGS

The Office of Environmental Quality Control, responsible for coordinating all state governmental agencies in matters concerning environmental quality, provided an overview of the State's pesticide control system. The presentation included a review of Federal and State statutory responsibilities with regard to pesticides management, a brief discussion of the primary State and Federal agencies involved and the programs administered by these agencies. According to Interim Director, Ms. Letitia Uyehara, a significant limitation within the pesticide management system is the absence of established tolerance levels for pesticides in the environment. These tolerances serve as triggering or action levels beyond which a qualified health risk is present. The responsibility for setting these levels lies with the U.S. Environmental Protection Agency (EPA); however, the EPA presently offers little guidance for assessing the health risks of compounds found in local drinking water sources.

Your Committee finds that:

- (1) federal legislation governing pesticide usage and water quality is contained in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Safe Drinking Water Act, both of which are administered by EPA;
- (2) data and information pertaining to a pesticide's registration, including its impact upon health and the environment is provided to EPA by the manufacturer of the pesticide, and once registered, becomes available to the state;
- (3) the National Safe Drinking Water Act identifies only seven organic chemicals which implementing agencies are to explicitly monitor for;
- (4) the EPA has not established any action or maximum permissible levels for the major suspect chemicals thus far found in Hawaii's groundwater sources; and
- (5) in considering the cancellation of an existing registered pesticide, economic as well as environmental and health arguments are to be weighed.

Your Committee also received testimony from the State Department of Agriculture on its activities in the area of pesticide regulation. Mr. Jack Suwa, Director of the Department of Agriculture observed that a potential weakness in the pesticide monitoring system is a lack of an overall strategy to direct monitoring activities. Monitoring and testing activities have been primarily in reaction to the discovery of adverse conditions, or as special studies of limited scope. Individual program interests and priorities as opposed to systematic integration and coordination appear to have been the rule. Further, Mr. Suwa noted that, in general, program resources are deficient considering the large and diverse clientele, the opportunities for pesticide misuse, the growing public expectations for environmental quality and the increasing complexity of ecological issues and problems. Finally, Mr. Suwa emphasized that the problem of groundwater contamination by chemicals is an emerging national issue and that Hawaii's efforts at defining, assessing and dealing with the problem are among the first in the country.

Your Committee finds that:

- (1) the enforcement and monitoring of pesticide use is the primary responsibility of the Department of Agriculture, which administers the Hawaii Pesticides Law (Chapter 149A, HRS) and enforces the provisions of the federal pesticide law (FIFRA); and
- (2) pursuant to the Hawaii Pesticide Law, the Department of Agriculture

conducts routine use inspections, investigates use complaints, and monitors the importation and marketing of pesticides, but is not statutorily responsible for any groundwater testing or monitoring.

Your Committee next heard testimony from Mr. Charles Clark, Director of the State Department of Health. Mr. Clark emphasized that the Department of Health has no role in any aspect of the use of pesticides. Rather, its primary function is to ensure that water suppliers comply with specific water quality standards under the federal Safe Drinking Water Act. Compliance is accomplished through a program of regular laboratory testing for seven organic chemicals as required under the Safe Drinking Water Act. These include four insecticides (endrin, lindane, methoxychlor, and toxaphene), two herbicides (2, 4, - D and 2, 4, 5 - TP - - commonly known as silvex) and all trihalo-methanes.

There are, however, several known pesticides for which the EPA has not established any tolerance levels, nor which are dealt with in the Safe Drinking Water Act. Director Clark indicated that while the department does have the authority to independently establish tolerance levels within the State, it is reluctant to do so in the absence of any reliable health risk data. Mr. Clark's opinion is that if the EPA cannot yet determine such action levels, the Department of Health would likewise be reluctant to do so.

Your Committee finds that:

- (1) as a result of the current situation at Mililani and Waipahu, the DOH has been analyzing additional water samples for pesticide contamination in order to assure proper laboratory quality control; mainland laboratory assistance is requested for confirmation when analysis occurs in the part per trillion range;
- (2) the DOH is responsible for defining when a health hazard exists; such a decision is based on established tolerance levels;
- (3) the DOH regulates water suppliers at all times and enforcement measures are taken when pesticide amounts violate established standards; and
- (4) with respect to informing the public, whenever a public water system is not in compliance with the Safe Drinking Water Act, the public water system must notify the Department of Health, the EPA administrator, and the local media of the adverse conditions regarding the extent to which those conditions impose adverse effects on public health.

Your Committee also heard testimony from Mr. Kazu Hayashida, Manager and Chief Engineer of the Honolulu Board of Water Supply. The Board's primary responsibility with respect to the current pesticide contamination problem is to determine ways of treating contaminated water sources in order to restore water quality levels to the standards contained in the Safe Drinking Water Act. While primacy in implementing the Safe Drinking Water Act rests with the DOH, the Board of Water Supply does test and monitor its wells for the purpose of assuring that they comply with the requirements of the Safe Drinking Water Act.

Your Committee finds that:

- (1) the Board has no jurisdiction over the use, regulation, or monitoring of pesticides; and
- (2) as purveyors of water, the Board's primary responsibility is to assure that the product delivered conforms with the standards set by the Safe Drinking Water Act.

Finally, your Committee heard testimony from three representatives of the University of Hawaii. Dr. Noel Kefford, Dean of the College of Tropical Agriculture and Human Resources, discussed the manner in which the college assists the Department of Agriculture, specifically in laboratory testing and analysis of food and soil samples.

Dr. Barbara Siegel, Director of the Pesticide Hazard Assessment Project, reviewed the project's operations with respect to performing health research and providing information and education on pesticide hazards in the community.

Dr. Stephen Lau, Director of the Water Resources Research Center, concluded the presentations with testimony describing the Center's efforts to development methods to better monitor and analyze interactions between pesticides, soils and water sources.

Based on information received from the University of Hawaii participants, your committee finds that:

- (1) pest management is an essential component of a systems approach to sustaining the contributions of agriculture in Hawaii;
- (2) a complex set of environmental and biological factors and processes affect the fate of a pesticide within an ecological system -- including any accumulation within groundwater sources;
- (3) there is a lack of definitive research, and knowledge on the possible health effects of pesticides used in Hawaii, particularly at the levels which we are presently finding residues; and
- (4) while intense laboratory experimentation on animals may provide some health risk indication, results from animal testing do not accurately assess the human health risk.

CONCLUSIONS AND RECOMMENDATIONS

Your Committee finds that an increasing number of incidents of pesticide contamination, across the nation as well as in Hawaii, have raised serious questions about the health hazards associated with the use of pesticides and the capabilities of governmental agencies to effectively deal with its effects upon environmental resources and human health. Your Committee agrees that the issue involves a large and diverse clientele, the existence of opportunities for pesticide misuse, a growing public expectation for environmental quality, a lack of substantive knowledge and information on pesticide use and impacts, and the increasing complexity of ecological issues and problems.

Your Committee believes that a collective effort is necessary to improve the state's capabilities in monitoring and preventing contamination by pesticides and other potentially hazardous chemical elements. Your Committee further believes that certain steps can be taken at the state level to improve the state's pesticide management system. These are listed below.

I. Contamination Prevention

Groundwater pollution is often not recognized until a significant portion of the aquifer has become contaminated, and once contaminated, recovery may take years and can be difficult and expensive. To ensure greater emphasis on the prevention of groundwater contamination, your Committee recommends the following:

- A. Increased state support and encouragement should be placed on the development and application of non-chemical means of pest management including biological control, the breeding of disease resistant crop plants, and other integrated pest management alternatives.
- B. Under the coordination and guidance of the OEQC, a balanced set of studies of potentially toxic and hazardous pesticides used in Hawaii should be conducted or continued to determine their movement and fate in soils, potable water sources, animal feed, and food products.
- C. Under the coordination and guidance of OEQC, all state agencies or departments which currently maintain responsibilities in pesticide usage or water quality should immediately review past studies on pesticide contamination and implement those recommendations which are still applicable.

II. Monitoring Practices and Procedures

Monitoring efforts have generally been inadequate in both scope and area of coverage, and do not necessarily describe the full extent of groundwater contamination. To improve these efforts, your Committee recommends the following:

- A. Under the coordination and guidance of OEQC, all aquifers and surface water sources in the state should receive systematic and focused monitoring from DOH and the county Boards of Water Supply for locally suspected pesticides and chemical by-products, regardless of whether they are used as drinking water sources. Standard procedures for analytical sampling and testing should be established and conducted by public and private laboratories.
- B. Monitoring priority should be given to potable aquifers and surface water sources.
- C. The University of Hawaii Water Resources Research Center should conduct research to measure and analyze present pesticide levels and to determine the effectiveness of water purification technologies.

III. Information Collection and Dissemination

To improve the State's data base on pesticide application trends and natural dissipation processes, and to remedy mixed or confusing informational and educational reports from government agencies to the public, your Committee recommends the following:

- A. Under the coordination and guidance of OEQC, the Department of Agriculture should continue to develop, compile, and maintain a data base of historical and current pesticide use patterns and practices to assist in identifying areas where groundwater contamination resulting from the field application of pesticides is most likely to occur. This task should receive high priority due to a decrease in the amount of EPA funds currently supporting this program. Further, DOA and DOH should jointly establish a manifest (cradle-to-grave) system for pesticides, toxic and hazardous substances.
- B. The Office of Environmental Quality Control, in conjunction with the Governor and Hawaii's congressional delegation, should continue efforts to obtain information and data on the use of pesticides and related hazardous and toxic substances by the U.S. military.
- C. The Legislature should be notified by DOA whenever a pesticide registration exemption in Hawaii is applied for or requested from the EPA.
- D. Under the guidance of the Office of Environmental Quality Control, a contingency plan to assess the State's preparedness and ability to effectively respond to possible emergency or crisis situations involving pesticides or other toxic and hazardous substance should be undertaken. This plan could include practice drills of the communication and information networks of the involved agencies and recommendations for improving and coordinating public informational and educational efforts.

IV. Health Risks and Assessment

Despite greatly improved analytical testing and monitoring techniques, which have led to a vastly increased number of pesticide findings in the environment, your Committee finds that there is a lack of substantive knowledge on the health risks associated with exposure to or consumption of such contaminants, and therefore recommends the following:

- A. Request the U.S. Congress to mandate that the appropriate federal agencies immediately begin toxicological evaluations to quantify the health risks of known pesticides and related toxic and hazardous chemicals in order that maximum permissible levels can be defined and established.
- B. Urge the federal Environmental Protection Agency to strengthen federal pesticide registration information requirements with respect to their long term health effects.
- C. The OEQC should seek ways and means to assess and compare the risks associated with the contamination of water and food products by pesticides in cooperation with or in place of federal efforts.
- D. The University of Hawaii Pesticides Hazard Assessment Project of the Pacific Biomedical Research Center should conduct research on pesticides

in the environment and their effects on humans, such as the toxicity of pesticides in soils and the heptachlor content in milk and its effects on pregnancy, birth defects, and early childhood.

V. Interagency Coordination and Statutory Integration

To provide for central coordination of the responsibilities of regulating, monitoring, and enforcing pesticide usage and water quality, and to integrate pesticide and water quality laws in order to enhance the operating effectiveness of state agencies involved in environmental management, your Committee recommends the following:

- A. Request the Legislative Reference Bureau to conduct a study to determine the feasibility, organizational structure, and requirements for establishing a State Environmental Protection Agency. As recommended by the February, 1977, State of Hawaii Reorganization Plan and by a review of 31 states which have established state EPAs, the Agency's responsibilities would be to coordinate and address all matters of environmental quality.
- B. Prior to determining the feasibility of a State Environmental Protection Agency, the Office of Environmental Quality Control should assume the lead role in coordinating all agencies involved in the prevention, monitoring and mitigation of groundwater contamination.

The OEQC is presently authorized under HRS §341-4 to coordinate all state governmental agencies in matters concerning environmental quality, including: conducting research or arranging for the conduct of research in environmental matters; recommending programs for long-range implementation of environmental quality control; recommending environmental legislation as necessary; and initiating public educational programs. OEQC's capability to function as the designated lead agency in this area, however, has been limited by a lack of resources.

In order that OEQC may proceed to implement the various recommendations herein which provide for a coordinating, guidance, and central agency role, the following should be pursued:

1. OEQC should be statutorily granted coordinative and public information powers with respect to all pesticide related environmental and health matters. This authorization should include, but not necessarily be limited to, the authority to:
 - a. Seek out and hire individuals from various disciplines including at least 1 contract-hired Environmental Toxicologist.
 - b. Fill 2 existing Planner III positions and convert 1 existing Planner III to a Planner IV position.
 - c. Receive grants and contract services.
 - d. Serve as the central office for information dissemination on pesticide related issues.
 - e. Seek help from various community groups and the private sector to conduct workshops and engage in other activities for information gathering and dissemination.
- C. Establish an Advisory Committee on Pesticide Management to be appointed by the Governor and to include representation from government, industry, environmental and community groups, and the University of Hawaii. This Advisory Committee should be advisory to OEQC.
- D. Under the direction of the Office of Environmental Quality Control, each government agency or department with a responsible role in pesticide usage or water quality should prepare a Pesticides Action Plan which clearly defines its responsibilities, needs, and procedures for preventing or mitigating pesticide-related contamination.
- E. Request the Legislative Reference Bureau to study possible revisions to Hawaii's pesticide and water quality statutes and regulations to provide

for greater integration and definition.

Your Joint Interim Committee to Review the State's Capability to Monitor and Prevent Contamination of Water Resources by Pesticides is in accord with the findings and recommendations contained herein and transmits this report for your consideration.

Signed by Senators Hagino, Aki, Cayetano, Chang, Kawasaki, B. Kobayashi, Kuroda, Machida, Toguchi, Ajifu, Henderson and A. Kobayashi.

Signed by Representatives Okamura, Baker, Bunda, Chun, Kiyabu-Saballa, Matsuura, Menor, Nakata, Say, Takamine, Dang and Isbell.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1-84 on S.B. No. 2072-84

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article III, Section 9, of the Constitution of the State of Hawaii, to provide that the annual legislative salary, which is determined by the commission on legislative salary, shall be payable in the installments and at such times as provided by law.

Currently, there is a commission on legislative salary, appointed by the governor, which meets every eight years and submits to the legislature and the governor its recommendations for a salary plan for members of the legislature.

In reviewing the Committee of the Whole Reports of the 1978 Constitutional Convention, your Committee notes that the commission on legislative salary was established to remove the burden from the legislators to prescribe their salaries by their own actions. The report states:

Experience has clearly demonstrated that legislators are reluctant to prescribe their own salaries... Taxpayers are often critical of pay increases for legislators, and legislators run the risk of voting themselves out of office when they approve their own pay raises. Where the context dictates that emotion rather than rational thought govern, it is unrealistic to expect the legislators to prescribe their own salaries.

However, the Constitutional Convention also noted:

If legislative salaries are too low for many people to afford to serve, it will deny the public the services of many competent people, and the legislature may not be representative of a good cross section of the community. It would tend to attract only the very rich who need not depend on the salary and the very poor who can fare no better otherwise...the cost of living has risen markedly, and the time legislators must devote to their elected duties has increased in the state legislatures.

In making the proposal for a constitutional amendment, your Committee does not intend to change the authority granted to the commission on legislative salary to determine the annual salary of state legislators nor provide an increase in legislative salaries. However, your Committee finds that there is a need to permit a more equitable scheduling of payments which is to be determined by law.

The current legislative salary plan, adopted by the 1978 commission on legislative salary, provides that over seventy-five percent of the annual legislative salary be paid during February, March and April, and the balance be paid in equal installments over the other nine months. This method of payments has resulted in a disproportionately large amount of tax being deducted from the salaries during the legislative session months relative to the total annual salary. The small amounts paid during the nonlegislative session months serve to place a legislator with little or no income other than the legislative salary in the incongruous position of possibly being qualified for public assistance. Your Committee finds neither of these results desirable. Having the legislative salary prescribed in such installments and at such times as permitted by law will still maintain the commission on legislative salary's authority to recommend legislative salaries.

Your Committee upon further consideration has amended the bill by under-scoring the word "recommendation" in page 3, lines 8 and 9, to correct a technical error. Your Committee also has corrected a technical error on page 1, line 3, of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2072-84, 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. 2072-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 2-84 on H.B. No. 2161-84

The purposes of this bill are as follows: 1) to permit the use of moneys in the "bikeway fund" for the promotion of bicycling transportation and recreation; 2) to amend the definition of "bicycle" and "vehicle" and to add a definition of "toy bicycle" for the purpose of Chapter 291C, Hawaii Revised Statutes, the Statewide Traffic Code; 3) to make numerous other amendments relating to bicycles to Chapter 291C; and 4) to permit bicycle racing on public highways, when the race is approved by local authorities.

Your Committee finds that it is important that bicycle riders as well as the drivers of other vehicles give their name and address to persons injured by them or attending property damage by them. Your Committee also finds that bicycle riders should be required to render aid to their accident victims to the same extent as drivers of other vehicles. Therefore, your Committee has amended Section 4, page 5, lines 3-4 of the bill by deleting, "nor comply with this subsection unless the accident must be reported under section 291C-16".

Your Committee finds that the proposed amendment to Section 291C-16, Hawaii Revised Statutes, is overly broad and would excuse from reporting requirements bicyclists who kill or maim pedestrians or other bicyclists but do so in a parking lot or a bicycle path which is not within the boundaries of a highway. Therefore, your Committee has deleted Section 5 from the bill, as it was received by your Committee, and has accordingly renumbered subsequent sections.

Your Committee finds that Section 291C-144 presently, and as amended in Section 12 of the bill, as received by your Committee (Section 11 of the bill, as amended herein), could be read to forbid persons from riding bicycles. This is because it prohibits persons "riding upon any bicycle" from attaching themselves to "any vehicle" (which, under the new definition of "vehicle" in Section 3 of the bill, includes bicycles). Therefore, your Committee has amended Section 291C-144 in Section 12 of the bill, as received by your Committee, to delete "bicycle" and "moped" at page 9, line 22. It has also amended Section 12 of the bill, as received, to add, "and no person riding a bicycle or moped or himself or herself to any vehicle other than the one he or she is riding."

Your Committee has also amended Section 15 of the bill, as received by your Committee, in order to add, following "material" at page 13, line 14, the language, "at least four square inches in size and ". This would make the language of the proposed Section 291C-147(c), Hawaii Revised Statutes, conform to that of Section 291C-147(b).

Finally, your Committee has made technical and punctuation amendments to the bill, as received, to conform it to recommended bill drafting style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2161-84, 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. 2161-84, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Taniguchi, Kawakami, Morgado, Wong, Yoshimura and
Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 3-84 on H.B. No. 2486-84

The purpose of this bill is to permit the counties of Hawaii to establish a fee for each certificate of vehicle registration issued and to expand the permissible uses of the fund derived from such fees from the beautification of county primary highways to the beautification of all county highways.

Under present statutes, in addition to all other vehicle registration fees set by law, the counties may, by ordinance establish a fee for the registration of a vehicle of not more than 50 cents per certificate of registration.

Your Committee finds that although the counties have requested unrestricted authority to set county vehicle registration fees, they have not indicated any present plans to set this fee at a sum greater than \$1 per vehicle. Hence, your Committee finds that it is unnecessary at this time to permit an increase to a sum greater than \$1.

Therefore, your Committee has amended H.B. No. 2486-84, H.D. 2, S.D. 1, Section 2, page 3, line 9, to retain in Section 286-51, Hawaii Revised Statutes, the language, "of not more than", and to set the maximum fee chargeable by the counties at \$1 rather than at the 50 cents provided in present law.

Your Committee has also deleted the language proposed by H.B. No. 2486-84, H.D. 2, S.D. 1, Section 2, page 3, lines 10-11, "by the county's legislative body", because this language is redundant of the language "by ordinance".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2486-84, 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. 2486-84, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Taniguchi, Wong, Bunda, Morgado, Yoshimura and
Anderson
Managers on the part of the House

Conf. Com. Rep. No. 4-84 on H.B. No. 2337-84

The purpose of this bill is to require vehicles which are operated on public highways, other than motorcycles, motor scooters and certain older model vehicles, to display "at least two tail lights, spaced as far apart as practicable, which shall display red lights". With respect to motorcycles and motor scooters, the bill would require the display of only one red tail light.

Your Committee finds that present provisions requiring reflectors on bicycles are sufficient to protect bicyclists who ride their bicycles after dark. Therefore, it has amended Section 1, page 1, line 6 of the bill to add "bicycle" to the list of vehicles exempt from the two tail light requirement.

Your Committee is aware that H.B. No. 2161-84 proposes that the definition of "vehicle", for purposes of Chapter 291C, Hawaii Revised Statutes, include bicycles. Although this new definition will not bear directly upon Chapter 291, your Committee wishes to make clear that bicycles are not required to have tail lights. Your Committee also wishes to state that by making this exclusion for bicycles in Section 291-31, Hawaii Revised Statutes, it is not making any determination as to whether the term "vehicle" includes bicycles for purposes of other sections of Chapter 291, Hawaii Revised Statutes.

For the purpose of consistency, your Committee has added "thereof" at Section 1, page 1, line 8, and Section 1, page 2, lines 3, 13 and 20 of the bill.

Your Committee has also amended the bill by replacing "towards" with "from" at Section 1, page 2, lines 3 and 20 of the bill. This amendment is intended only to effect a stylistic, rather than a substantive, change in the law.

Finally, your Committee has deleted the word "where" from Section 1, page 1, line 12 of the bill to conform to recommended bill drafting style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2337-84, 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. 2337-84, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Taniguchi, Stanley, Hayes, Lardizabal, Nakasato and
Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 5-84 on H.B. No. 788

The purpose of this bill is to require every notary public to deposit 1), the notary's seal of office with the office of the attorney general, and 2), the notary's records with the clerk of circuit court, within ninety days from the notary's resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office.

Under section 456-3, Hawaii Revised Statutes, a notary public has sixty days to deposit the notary's seal of office. Your Committee concurs with the finding that extending the time to ninety days will provided the notary, or the notary's representative in case of the notary's death, with reasonable time in which to deliver the seal to the attorney general's office.

Moreover, because section 456-16, Hawaii Revised Statutes, mandates notary records to be left with the clerk, these records have accumulated in the Judiciary. Your Committee concurs with the finding that depositing the notary records upon the notary's resignation, death, expiration of each term of office, or removal from or abandonment of office will eliminate part of the problem for the Judiciary. Your Committee also concurs with the finding that extending the time to ninety days will provided the notary, or the notary's representatives in the case of the notary's death, with reasonable time to deposit the notary's records with the clerk of the circuit court.

Your Committee upon further consideration has amended the bill by making a technical correction on page 1, line 5, of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 788, 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. 788, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 6-84 on H.B. No. 1983-84

The purpose of this bill is to create a legal duty for any person at the scene of an accident, emergency, or crime who knows that a victim of the accident, emergency, or crime is suffering from serious physical harm. Such a person must obtain or attempt to obtain aid from law enforcement or medical personnel if the person can do so without danger or peril to any person. Any person who fails to comply with this duty shall be guilty of petty misdemeanor.

Under present law, there is a legal duty to assist police officers as provided under section 710-1011 and a legal duty to assist in firm control as provided in section 710-1012, Hawaii Revised Statutes.

Your Committee, upon further consideration, has amended the bill by limiting the circumstances where the legal duty to assist shall only apply to any person at the scene of a crime who knows a victim of the crime is suffering from serious physical harm. It is the intent of your Committee to encourage persons to come to the aid of others and to promote the public safety and welfare. Your Committee does not intend to have the police officers at the scene of the crime pursue persons who do not render aid at the expense of their primary duty of investigating the crime or providing emergency assistance.

Furthermore, in order to encourage persons to aid others, your Committee has amended the bill by providing that those who do come to the aid of crime victims shall be exempted from civil liability unless their acts constitute gross negligence or wanton acts or omissions, or unless they receive or expect to receive remuneration for their acts. Persons who fail to provide reasonable assistance required by this bill will not be liable for civil damages.

Your Committee has amended the bill further with technical, non-substantive amendments for grammatical clarity.

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

H.B. No. 1983-84, 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. 1983-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 7-84 on H.B. No. 1828-84

The purposes of this bill are as follows:

- 1) To clarify the definition of "special facility" in Section 266-51, Hawaii Revised Statutes;
- 2) To increase the maximum aggregate principal amount of special purpose harbor revenue bonds that can be issued from \$20,000,000 to \$50,000,000; and
- 3) To extend the period during which these bonds may be issued from June 30, 1983 to June 30, 1987.

The current definition of "special facility" does not clearly include or exclude buildings, structures, or facilities used for the processing and canning of fish and fish products. This bill would clarify Section 266-51, Hawaii Revised Statutes, to specifically include certain buildings, structures, or facilities used for the canning of fish and fish products in the definition of "special facility".

Present law requires that in order for a building, structure, or facility to be a "special facility", it must be "on land owned by the State for maritime operations". The Senate version of this bill would require that such buildings, structures, or facilities be "on land owned by the State and designated for maritime and marine operations". Your Committee finds that harbor special facility bonds should be available for buildings, structures, or facilities which are used for maritime and marine operations regardless of whether the land on which they are located is designated for maritime and marine operations. Your Committee has, therefore, amended Section 1, page 1, line 6 of the bill to remove the words "and designated".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1828-84, 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. 1828-84, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Taniguchi, Say, Kiyabu, Crozier, Hee, Wong and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 8-84 on S.B. No. 300

The purpose of this bill is to amend Chapter 291, Part II, Hawaii Revised Statutes, by adding a new section to require that automobile alarm systems which emit sounds when activated have an automatic device that terminates the alarm system within ten minutes of activation.

Presently, motor vehicle alarm systems are not subject to any kind of statutory regulation. They frequently malfunction causing many people to suffer through hours of noise and discomfort and police are not authorized to deactivate these alarms.

The main purpose of this bill is to prevent excessive and continuous noise from motor vehicle alarm systems. Your Committee finds that this purpose can best be achieved by requiring registered owners to be responsible for deactivating their alarm systems rather than by prohibiting the sale, purchase or installation of alarm systems which do not automatically terminate within a specified period of time. Therefore, your Committee has amended S.B. No. 300, S.D. 1, H.D. 1, by:

1. Amending subsection (b) to provide that registered owners shall be fined if their motor vehicle alarm systems are activated for more than five continuous minutes. Presently, subsection (b) prohibits the purchase, sale or installation of motor vehicle alarm systems which do not automatically terminate within ten minutes.
2. Amending subsection (b) to decrease the time period during which motor vehicle alarm systems may legally emit sound from ten to five minutes.
3. Amending subsection (b) to provide that fines for violations of this new section shall be "not more than \$100".

Your Committee believes that courts should have discretion in assessing fines for violations of this new section since there may be times when alarm system malfunctions may be caused by the illegal acts of others and finds that this penalty provision provides such flexibility.

4. Deleting subsections (c) and (d) since these provisions are applicable only where there is a prohibition against the sale, purchase or installation of certain types of alarm systems.
5. Deleting the instruction that this new section shall be included in part II of Chapter 291, Hawaii Revised Statutes.

Your Committee believes that this bill, as amended, can afford residents with some relief from the frequent malfunctioning of vehicle alarm systems and at the same time takes into consideration the concerns of victims whose alarm systems are damaged by the illegal acts of others.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 300, 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. 300, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 9-84 on H.B. No. 2308-84

The purpose of this bill is to conform Hawaii's controlled substance schedules with the federal schedules by adding the substances alpha-methylfentanyl, parahexyl, sufentanil, tilidine, alprazolam, halazepam, temazepam, triazolam, and synthetically produced cocaine. The bill further clarifies the legal definition of cocaine.

The bill also amends section 329-38 of the Hawaii Revised Statutes by requiring that the Department of Health shall issue an official prescription form for the prescriptions of a controlled Schedule II substance so that the procurement of Schedule II drugs through forged or stolen prescriptions and the theft of prescriptions are prevented.

Your Committee upon further consideration has made the following amendments to H.B. No. 2308-84, H.D. 1, S.D. 1:

- (1) Section 5 of the bill which provides that the Department of Health shall issue an official prescription form for the prescriptions of a controlled Schedule II substance has been deleted. Your Committee while recognizing the problems of forged and stolen prescriptions, and unauthorized practitioners writing such prescriptions, wishes to allow the Hawaii Medical Association and the Department of Health to voluntarily address these problems before legislating in this area. Such legislation as proposed in this section may well be considered in the future.
- (2) The subsequent sections of the bill have been renumbered to conform to the above amendment.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2308-84, 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. 2308-84, H.D. 1, S.D. 1, C.D. 1.

Senators Machida, B. Kobayashi and George
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. 10-84 on H.B. No. 2275-84

The purpose of this bill is to regulate the height of bumpers on motor vehicles with a gross vehicle weight rating of 10,000 pounds or less.

Currently, there are no regulations relating to bumper height for such vehicles. This bill limits the height of bumpers for motor vehicles with an exemption for motor vehicles, which at manufacture, have a bumper height in excess of that provided for in the bill. This bill also provides a definition of "bumper."

The Committee recognizes that there is general concern regarding excessive motor vehicle heights. However, a delayed effective date was agreed upon to provide reasonable notice to those in the after-market parts industry and the consumers to make changes necessary to comply with bumper height standards.

Your Committee upon further consideration has made the following amendment to H.B. No. 2275-84, H.D. 1, S.D. 1:

- (1) The effective date will be extended to July 1, 1985.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2275-84, 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. 2275-84, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Nakasato, Shito, Albano, Taniguchi, Tungpalan and
Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 11-84 on H.B. No. 2224-84

The purpose of this bill was to allow motorcyclists to purchase no-fault insurance with increased deductibles for personal injury incurred by the insured.

Under present law, motorcyclists may purchase no-fault insurance with personal injury deductibles of \$100, \$300, \$500 and \$1,000 per accident.

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

- (1) Deletion of the \$100 and \$300 deductible and the proposed \$2,500 deductible and insertion of a deductible increment of \$3,000. This proposed amendment is reflected on page 3, line 12 and page 15, line 10 and
- (2) New section 294-13(o), Hawaii Revised Statutes, has been amended to increase the amount of reduction the insurer may offer to a motorcyclists. Section (o) has been amended to read as follows:

"Notwithstanding subsection (j), all insurers of any motorcycle, motor scooter, or vehicle with less than four wheels may provide a reduction of not more than fifteen per cent off the regular premium each insurer assesses to the operator purchasing a renewal no-fault policy, and a reduction of not more than fifteen per cent off the regular premium each insurer assesses to the operator purchasing a no-fault policy when the operator purchases insurance for more than one vehicle of the type described in this subsection."

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

H.B. No. 2224-84, 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. 2224-84, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Fernandes Salling and Henderson
Managers on the part of the Senate

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

Conf. Com. Rep. No. 12-84 on H.B. No. 1790-84

The purpose of this bill was to allow speedier formation of businesses within the State by simplifying the registration standards used in determining the acceptability of business names and marks.

Your Committee, upon further consideration, has amended page 8, line 15 to correct a drafting error. Section 482-4(a), Hawaii Revised Statutes, has been amended to read as follows:

"(a) It [is] shall be unlawful for any person to adopt or use a print, label, trademark, service mark, or trade name which is identical to or confusingly similar..."

Your Committee on Conference is in accord with the intent and purpose of H.B. 1790 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. 1790-84, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Kawasaki and Soares
Managers on the part of the Senate

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

Conf. Com. Rep. No. 13-84 on H.B. No. 2281-84

The purpose of this bill is to further regulate the activities of condominium managing agents.

This bill: 1) requires managing agents to register with the Real Estate Commission; 2) allows the Commission to reject managing agent applications failing to meet statutory requirements; 3) requires managing agents to deposit condominium project funds in an insured financial institution located in this State; 4) prohibits tampering of condominium records of managing agents; 5) requires managing agents to have a designated agent in the State authorized to act on the managing agent's behalf; 6) designates managing agents as fiduciaries with respect to funds dispersed and collected on behalf of condominium owners; 7) provides penalties for managing agents violating applicable laws; 8) adds a new definition of "Managing agent"; 9) authorizes the Real Estate Commission to investigate and enjoin managing agents when necessary; 10) increases the bonding requirements for managing agents; 11) allows managing agents to dispose of condominium records under certain conditions; 12) assesses a registration fee on managing agents to be placed in the Compliance Resolution Fund; 13) includes "fiscal management" as a duty in redefining the term "operation of the property"; and 14) requires the Association of Apartment Owners, in those projects having no managing agent, to provide to the Real Estate Commission, at its request, evidence of the required bonding for persons handling the project's funds.

Your Committee, upon further consideration, has amended section 514A-84(c), Hawaii Revised Statutes, to make it consistent with the proposed amendments to section 514A-84(b), Hawaii Revised Statutes. Section (c) has been amended to read as follows:

"If a project chooses not to have a managing agent, a fidelity bond in an amount equal to [250] \$500 multiplied by the number of units in the project shall be secured for all [individuals] persons handling the project's funds; provided that the minimum amount of bond required by this subsection shall not be less than [\$10,000] \$20,000 nor greater than [\$50,000.] \$100,000...."

Your Committee further amended the bill by making nonsubstantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2281-84, 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. 2281-84, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Fernandes Salling and Soares
Managers on the part of the Senate

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

Conf. Com. Rep. No. 14-84 on H.B. No. 2012-84

The purpose of this bill was to require licensed contractors who advertise to include their assigned license number in their advertisements.

Your Committee finds that an effective date upon approval would be unduly burdensome and unrealistic, since telephone advertising solicitation for the 1985 telephone directory has been going on for several months. Your Committee, in fairness to the industry has, upon further consideration, amended the bill by amending Section 3 to read as follows:

"This Act shall take effect on November 1, 1984."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2012-84, 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. 2012-84, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Fernandes Salling, Kuroda and Soares
Managers on the part of the Senate

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

Conf. Com. Rep. No. 15-84 on H.B. No. 1311

The purpose of this bill is to amend Section 92-7 (b) of the Hawaii Revised Statutes, by expanding the seventy-two hour public notice filing and posting requirement for meetings of public agencies.

According to testimony previously received by your Committee, the current seventy-two hour requirement is not sufficient for the public to be made aware of forthcoming public hearings. Further, an extension of time beyond the present requirement would be of great assistance to individual citizens and community groups and associations in the preparation for public hearings.

Your Committee has amended this bill by deleting the amendment made to Section 37-111(c) which would provide for closed meetings of the Council on Revenues and for the nondisclosure of confidential tax information. In its place, your Committee has reinserted the amendment requiring six calendar days for the filing of notice of public meetings in lieu of the seventy-two hour requirement currently in Section 92-7(b). In addition, the phrase "in the manner provided herein" in lines 11 and 12 on page one of the bill has been deleted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1311, 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. 1311, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Albano, Grauly, Hayes, Honda, Nakasato, Wong
and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 16-84 on H.B. No. 1220

The purpose of this bill is to provide that recovery of costs to the prevailing party is allowed for deposition transcript originals and copies, and other incidental expenses, such as copying costs, local telephone charges, and postage. The bill further provides that in determining whether and what costs should be taxed, the court shall consider the equities of the situation and the economic status of the parties.

Under present law, only a portion of the actual expenses incurred by the successful party traditionally have been awarded by the courts. However, as technology becomes more advanced, litigation becomes more complex and more expensive. Parties have to make serious financial sacrifices to properly prepare for trial. It is the intent of your Committee to provide access to the courts by allowing certain expenses as taxable costs.

Your Committee upon further consideration has amended the bill by providing that intra-state travel expenses for witnesses and counsel and intra-state long distance telephone charges may be allowed in taxation of costs. Allowing these as costs will especially be beneficial to neighbor island businesses and residents.

Your Committee has further amended the bill by providing that the court shall consider equities of the situation such as economic status of the parties and the merits of the claims in determining whether and what costs should be taxed.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1220, 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. 1220, H.D. 1, S.D. 1, C.D. 1.

Senators Chang, Cayetano 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. 17-84 on H.B. No. 1852-84

The purpose of this bill is to amend the Uniform Desertion and Nonsupport Act by deleting gender-specific language and clarifying the terms in sections 575-2 to 575-4, Hawaii Revised Statutes.

Deletion of gender-specific language is in accord with the intent of the Equal Rights Amendment to the Hawaii State Constitution, which guarantees equality of rights to both sexes. The substitution of the word "person" for "husband" will equalize the obligation of both spouses to each other and to the children.

Your Committee concurs with the finding that the absence of any spouse or parent from the other spouse or child or children under the age of sixteen for a continuous period of three months or more without first making suitable provision for the support or maintenance of the spouse, child, or children shall be prima facie evidence of desertion and wilful neglect. Any longer period of time will pose too much of an economic hardship for the deserted spouse, child, or children, who may be totally dependent on the support as their only source of income.

Your Committee upon further consideration has amended the bill for purposes of style and clarity.

Your Committee has further amended the bill revising the drafting style to what is currently provided under the statute.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1852-84, 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. 1852-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 18-84 on H.B. No. 1863-84

The purpose of this bill is to insert a reference to a statutory chapter in §707-726(1), Hawaii Revised Statutes, in place of a reference to a statutory chapter that needs to be deleted because it was repealed in 1982.

This bill is a housekeeping measure. Chapter 585, relating to Ex Parte Temporary Restraining Orders, was repealed in 1982, and Chapter 586, relating to Domestic Abuse Protective Orders, was enacted in its place. However, Hawaii Revised Statutes 707-726(1) was not also amended to change the reference to the new chapter.

The bill also provides stylistic revisions for the purpose of clarity by specifying that the offense of custodial interference is committed by a relative of a person less than eighteen years of age.

Your Committee upon further consideration has amended the bill for purposes of clarity and style as follows:

1. References to "the relative" have been deleted in page 1, lines 7, 12, and 14 and replaced by the pronoun, "he".
2. The reference, "or herself", has been deleted on page 1, line 14.

Your Committee has also made technical, non-substantive amendments to conform with Ramseyer requirements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1863-84, 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. 1863-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 19-84 on H.B. No. 1932-84

The purpose of this bill is to enable the Family Court to order outpatient treatment for mentally ill individuals who need treatment but are incapable of deciding to voluntarily seek or comply with such treatment.

Your Committee finds that involuntary outpatient treatment is a viable means to provide necessary care to persons whose personal history of mental deterioration indicates that they would become imminently dangerous to themselves or to others though they do not immediately pose such a threat. This provision is needed because under present law, such persons cannot be treated until they actually become so imminently dangerous to themselves or to others that they must be involuntarily committed to a psychiatric facility. Under this bill, timely intervention may be initiated to prevent or reduce serious mental deterioration and offer an alternative to institutionalization for such persons, thus permitting appropriate treatment to be provided in the least restrictive environment.

Your Committee upon further consideration has made the following amendments to H.B. No. 1932-84, H.D. 1, S.D. 2:

- (1) Section 2 has been amended to provide as in H.D. 1 of the bill that the public defender may be appointed to represent indigent subjects of an involuntary outpatient treatment petition.
- (2) Amendments in page 5, line 20, and in page 7, line 1 have been made to conform to the new Section 2.
- (3) The subsequent sections of the bill have been renumbered.

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

H.B. No. 1932-84, 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. 1932-84, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Chun, Stanley, Hayes, Hirono, Tom, Tungpalan and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 20-84 on H.B. No. 2108-84

The purpose of this bill is to amend Chapter 188, Hawaii Revised Statutes:

- (1) By adding a new paragraph (7) in subsection 188-29(a), to allow persons engaged in surround net fishing with scuba to transport fish to boats or the shore in nets with a mesh measurement of not less than one and one-half inches, rather than the present minimum legal size of stretched mesh for netting of two inches;
- (2) By amending paragraph (8) in subsection 188-29(a), to limit the size of a bullpen trap to 1,500 feet in any direction and to limit the time such a trap may be left in the water to 16 hours;
- (3) By amending Section 188-28.5, to clarify the definition of a bullpen trap; and
- (4) By deleting subsection 188-28.5(b) which refers to gill nets.

Under this bill, the use of nets with mesh of not less than one and one-half inches is permitted to assist scuba fishermen in transporting their catch. Your Committee finds that the bill is not contrary to fish conservation principles and that nets of one and one-half inches mesh measurement enable regeneration of fish populations.

Moreover, the bill proposes to clarify the definition and use of bullpen traps. Your Committee is of the opinion that greater clarification is needed, and recommends the following amendments:

- (1) In Section 188-28.5, to specify that a bullpen trap is "a pen and guide or guides", and that the length or lengths of the guide or guides may include netting. This would eliminate any ambiguity as to what is meant;
- (2) In new subsection 188-28.5(b) and (c), to limit further the size of a bullpen trap to 750 feet in total length, which includes the pen and guide or guides, and to restrict the time such a trap may be left in the same place to 12 hours, rather than "left unattended" for more than 16 hours; and
- (3) To make technical and nonsubstantive amendments, as well as changes in style in conformance with standard format in drafting bills.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2108-84, 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. 2108-84, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Say, Matsuura, Bunda, Kiyabu-Saballa, Souki and Dang
Managers on the part of the House

Conf. Com. Rep. No. 21-84 on S.B. No. 26

The purpose of this bill is to require automobile manufacturers or dealers to repair or replace new motor vehicles to consumers, or refund to consumers, the purchase price of new motor vehicles which do not conform to express warranties.

In addition to providing remedies to consumers, this bill also:

- (1) Specifies the conditions and procedures to be met and followed by consumers and manufacturers regarding the repair, replacement, and refund of the purchase price of new motor vehicles;
- (2) Does not abrogate or limit the rights or remedies which are otherwise available to consumers;
- (3) Prohibits consumers from obtaining a replacement or refund of the purchase price of a new motor vehicle if the consumer fails to utilize any informal dispute settlement procedure that may be offered by the manufacturer;
- (4) Provides a statute of limitations of one year following the expiration of a warranty for actions to be initiated under the proposed law; and
- (5) Redefines the term "Consumer" from "a person who intends to or actually drives or physically utilizes a motor vehicle..." to "any person who purchases, other than for purposes of resale, a motor vehicle for personal, family, household or business purposes..." The "household" purpose has been added to the definition. "Consumer" has also been amended to include subsequent owners of new motor vehicles still under warranty, and any other person entitled by the terms of a warranty to enforce the obligations of the warranty.

Your Committee has amended the bill by amending page 3, line 19 of the bill as received (page 3, line 17 of the conference draft) to read: "accordance with subsection (a), its agent, distributor, or ...", by amending page 4, line 23 of the bill as received (page 4, line 22 of the conference draft) to underscore the word "household" which is new statutory material and by amending page 3, line 15 of the bill as received (page 3, line 13 of the conference draft) to add a comma and delete the word "or" after the word "strike", and to delete the comma after the word "flood".

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 26, 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. 26, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Carpenter and Soares
Managers on the part of the Senate

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

Conf. Com. Rep. No. 22-84 on S.B. No. 29

The purpose of this bill was to require strict disclosure requirements for developers, 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.

Currently, there is no statutory time share advertising or promotions requirement for disclosure of information regarding prizes or gifts offered, conditions of receipt and a full description of the item offered.

Upon further consideration, your Committee has made the following amendments to the bill:

- (1) On page 2, line 8 and page 4, line 17, the word "bold" was added before the word "type", as it appeared in the original version of the bill.
- (2) The proposed new section 514E-11 (3)(D), on page 2, lines 16-18, was amended to include the phrase, "type of ownership, exchange, privileges, limitations, and", to provide for more specific disclosure requirements of a time share project. The section was further amended on page 2, line 18 by substituting the word "interests" for the word "product" for the purpose of clarification.

- (3) On page 2, lines 2 and 14, and page 4, line 11, the words "submit to" were deleted and replaced with the word "attend" for the purpose of clarification.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 29, 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. 29, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 23-84 on S.B. No. 1740-84

The purpose of this bill was to extend the time for repeal of the Board of Nursing until December 31, 1990. The bill also addresses concerns expressed by the Legislative Auditor's Sunset Report on Nursing (Report No. 84-4).

Your Committee finds that the bill would: 1) permit the continued regulation of nursing; 2) require the Board of Nursing to monitor laws of other states and make recommendations to the Legislature on amendments to the definition of "the practice of nursing"; 3) repeal the requirement that the executive secretary of the Board be knowledgeable and experienced in nursing, and to require the executive secretary to maintain a manual of policies and procedures of the Board; and 4) prohibit the Board from requiring faculty members of nursing education programs to receive the Board's approval prior to teaching.

Your Committee upon further consideration amended the bill on page 6, line 9 by replacing the phrase, "in the field of nursing", with "of a health related field". This amendment provides the Board with more flexibility in selecting an executive secretary who possesses an adequate professional background in a health related field to fulfill the requirements of the position.

Your Committee has further amended the bill by removing an unnecessary comma after the word "recommendations" on page 5, line 13.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1740-84, 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. 1740-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 24-84 on S.B. No. 1872-84

The purpose of this bill is to allow apartment owners flexibility in amending Declarations of Horizontal Property Regimes with respect to subdividing or consolidating apartments. The bill also simplifies procedures to amend Declarations to accommodate condominium projects developed on an incremental basis and to file "as built" certifications of architects or engineers when a project is completed.

Your Committee made a technical change to the bill on page 7, line 1, by removing the parentheses from the number 11 in the reference to section 514A-11(12).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1872-84, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1872-84, H.D. 1, C.D. 1.

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

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

Conf Com. Rep. No. 25-84 on S.B. No. 2049-84

The purpose of this bill is to amend several sections of Chapter 287, Hawaii Revised Statutes, the Motor Vehicle Safety Responsibility Act as follows:

- (1) Section 287-8, Hawaii Revised Statutes, would exclude from the security and suspension requirements of Sections 287-5 and 287-6, Hawaii Revised Statutes, "the driver of a motor vehicle owned by that person's employer involved in an accident during the normal scope of that person's employment."
- (2) Section 287-9(2), Hawaii Revised Statutes, would provide that a license or permit suspended pursuant to Section 287-6, Hawaii Revised Statutes, would be suspended for a period of two years, rather than one year as current law requires.
- (3) Presently, Section 287-9(3), Hawaii Revised Statutes, provides that if there were to be a default in the payment of an installment under an agreement in accordance with Section 287-8(4), Hawaii Revised Statutes, the license shall be suspended until one year has elapsed from the date security has to be deposited. The bill would amend Section 287-9(3), Hawaii Revised Statutes, to extend this period to two years.
- (4) Currently, Section 287-20, Hawaii Revised Statutes, states that proof of financial responsibility is required upon conviction of certain crimes and in the case of certain adjudications. This bill would amend that section to include convictions for driving during suspension or revocation of a license and failure to have an effective no-fault insurance policy required by Section 294-8(a), Hawaii Revised Statutes, as additional offenses for which proof of financial responsibility would be required.

Your Committee has made a technical, nonsubstantive amendment to the bill by deleting the period after the word "fault" on line 18, page 5 of the bill as received (line 17, page 5 of the Conference Draft) and substituting a semicolon and the word "and" therefor.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2049-84, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2049-84, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 26-84 on S.B. No. 2212-84

The purpose of this bill is to authorize the Director of Health to take precautionary measures including actions to embargo, detain, or remove products from market, or declare a quarantine when a potential health hazard exists.

Following a recent Department-initiated recall of muffin and cake mixes contaminated with the pesticide ethylene dibromide (EDB), a national food conglomerate initiated litigation which questioned the Director of Health's authority to withhold a product from the market because of suspected health hazards. Your Committee finds that if the courts determine that the Director lacks this authority, the Director will be unable to protect the State from products known or suspected of being contaminated with a potentially harmful substance.

Your Committee finds that this bill addresses concerns regarding the heavy financial burden that product embargoes, detentions, and recalls place on local food processors by providing for a forty-eight hour period during which the Department of Health must either prove the existence of a health hazard or rescind its action on the product in question.

Upon further consideration, your Committee has amended the bill by providing

that the Director of Health must find evidence of a health hazard within seventy-two hours of the imposition of the action taken, rather than forty-eight hours as provided in the bill as received, or rescind the action. Your Committee has further amended the bill by providing that the Director shall make the findings public. Your Committee finds that seventy-two hours is a more reasonable amount of time to allow the Department to complete its findings.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2212-84, 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. 2212-84, S.D. 1, H.D. 1, C.D. 1.

Senators Machida, Fernandes Salling and George
Managers on the part of the Senate

Representatives Chun, Apo, Hirono and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 27-84 on S.B. No. 2087-84

The purpose of this bill was to limit the amount of interest that may be charged on certain agreements of sale under chapter 478, Hawaii Revised Statutes, and to eliminate the "drop dead" provisions in chapters 408 and 478, Hawaii Revised Statutes.

Your Committee finds that buyers under many agreements of sale may be unable to qualify for financing to satisfy their agreements of sale at maturity due to interim increases in market interest rates. Unlike lenders, whose costs of funds fluctuate, many sellers have older fixed-rate mortgages at low interest rates so that interest rates charged on the agreements of sale are excessively above the mortgage rates. This results in sellers having an undue advantage in bargaining power. This bill would alleviate the situation by limiting the interest rates on agreements of sale in such circumstances by imposing a ceiling related to the underlying mortgage rate.

With regard to the "drop dead" provisions on interest rates, your Committee finds that having unrealistically low interest rate ceilings adversely affects businesses and makes it difficult for consumers to obtain needed credit and loans. Your Committee is persuaded that the interest rates currently in effect are realistic and that competition will prevent lenders from automatically charging maximum allowable interest rates.

Upon further consideration, your Committee has amended S.B. No. 2087-84, S.D. 1, H.D. 1, by:

- (1) Increasing the legal maximum rate of interest which may be charged upon the extension or renegotiation of an agreement of sale. The amendment increases this rate from two per cent to four per cent above the highest rate of interest of any loan secured by the real property which is the subject of the agreement of sale. It is the intent of the committees represented to observe the effect and application of the changes in interest rate ceilings during the next year and to be prepared to make amendments which may be necessary and appropriate.
- (2) Deleting an unnecessary comma after the word "that" on page 15, line 7 and the phrase ", or the rate" on page 15, line 17, as it is unnecessary and confusing.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2087-84, 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. 2087-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 28-84 on S.B. No. 2243-84

The purpose of this bill is to revise the current law concerning small boat

harbors.

Specifically, this bill:

- 1) Permits for a one year period following the bill's enactment, commercial vessel owners holding valid mooring or commercial permits to transfer ownership of the vessel to corporate or other business ownership without terminating their rights under those permits;
- 2) Adds the definition of "person" and clarifies the definition of "owner";
- 3) Statutorily requires a vessel owner who is permitted to moor in a state small boat harbor to notify the Department of Transportation (DOT) of any transfer of any interest in, or possession of, the vessel;
- 4) Exempts transfers of stock, or of an interest in a noncorporate business entity, from the provisions automatically terminating a commercial permit upon transfer of vessel ownership, and allowing the DOT to adopt rules governing such transfers;
- 5) Requires that any person possessing a commercial permit meet minimum revenue standards, as determined by DOT;
- 6) Makes technical amendments to Section 266-25, Hawaii Revised Statutes, relating to penalties for violation of certain DOT regulations and the lawful commands of certain harbor personnel;
- 7) Adds a proviso to Section 266-25, Hawaii Revised Statutes, which would allow the courts to deprive a person violating certain DOT harbor regulations and lawful commands of certain harbor personnel of the privilege of operating or mooring a vessel in state waters for up to two years; and
- 8) Permits the courts to impose a term of imprisonment of up to one year for certain serious violations of these rules or commands.

Under present DOT rules, any transfer of an interest in a vessel from a natural person holding the permit to moor the vessel at a state small boat harbor (the "permittee") to a corporation or other business entity automatically terminates any right to moor or operate the vessel under the permit. Also, most significant transfers of an interest in a permittee which is a business entity are deemed changes in ownership which terminate the permittee's rights. Due to the long waiting lists for commercial mooring permits, a vessel which has its license terminated may have to wait years to obtain another permit at the same harbor.

The inability of an individual permittee to change the commercial operation to corporate or another business form, due to the threat of automatic loss of the permit, severely hampers the permittee's ability to obtain capital for, and to expand, the permittee's business.

Because no significant interest in a business entity such as a corporation, limited partnership, or business trust can be transferred without causing loss of the permit, if a holder of an interest in the business entity which owns the vessel dies, retires, or simply wishes to sell the interest, the employees of the business lose their jobs.

Your Committee feels that a sale or other disposition of stock of a corporate permittee, a limited partnership interest in a limited partnership permittee, or the beneficial interest of a business trust permittee, should not be considered a change in the ownership of the vessel because the vessel's owner, the corporation, the limited partnership, or the business trust remains the same.

Your Committee finds that it is imperative for the continuing economic viability of commercial vessels that there be some certainty with respect to moorage of commercial vessels in order that these businesses may continue to provide revenue for the State, jobs for Hawaii's people, and recreation for residents of, and visitors to, Hawaii.

Your Committee intends that any DOT rule restricting, or otherwise relating to, these transfers shall be prospective only in application and shall not be

applied to invalidate any transfer legitimately made pursuant to Section 266-21.1 prior to the adoption of such rule. It is also the intent of the Committee that any such rules shall be applied uniformly and equally to all commercial vessels, or to all commercial vessels of a particular class, wherever moored in the State, unless disparate treatment is necessitated by the configuration of a particular harbor or by similar considerations.

Your Committee upon further consideration has made the following amendments to S.B. No. 2243-84, S.D. 1, H.D. 1:

- 1) A spelling correction is made on Page 2, line 9 to correct the spelling of "charterer"; and
- 2) The proviso in section 2 authorizing imprisonment for serious violations has been deleted, because the current law covers these areas.
- 3) Nonsubstantive clarifying language changes were made to the proposed new language relating to transfers of stock and minimum revenue standards appearing in the last paragraph of page 2 and the top of page 3.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2243-84, 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. 2243-84, S.D. 1, H.D.1, C.D. 1.

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

Representatives Hayes, Kawakami, Honda, Wong, Yoshimura and Anderson
Managers on the part of the House

Representative Yoshimura did not sign the report.

Conf. Com. Rep. No. 29-84 on S.B. No. 2073-84

The purpose of this bill is to authorize the payment of legislative salaries in equal semi-monthly installments, beginning with the first pay period for state employees in November of the year the legislator is elected.

This bill shall take effect only upon the voters' ratification of the proposed constitutional amendment to Article III, Section 9, of the Constitution of the State of Hawaii, providing that the method of payment of legislative salaries shall be as established by law. This bill prescribes that method of payment.

The current legislative salary plan, adopted by the 1978 Commission on Legislative Salary, provides that over seventy-five percent of the annual legislative salary shall be paid during February, March, and April. The balance is paid in equal installments over the other nine months. This method of payment has resulted in a disproportionately large amount of tax being deducted from the salaries during the legislative session months relative to the total annual salary. The small amounts paid during the nonlegislative session months serve to place a legislator with little or no income, other than the legislative salary, in the position of possibly being qualified for public assistance.

Your Committee finds that equal and regular payment of salaries would achieve a more reasonable pattern of salary payment and is more practical and efficient.

Your Committee has amended the bill to delete reference to the requirement that payments be made semi-monthly. This will avoid the necessity of amending the section if the State changes its present semi-monthly payment schedule. Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2073-84, 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. 2073-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 30-84 on S.B. No. 1729-84

The purpose of this bill is to amend sections 602-8 and 602-53, Hawaii Revised Statutes, to provide that the Supreme Court and the Intermediate Appellate Court shall be in continuous session.

Under present law, the annual term for both the Supreme Court and the Intermediate Appellate Court begins on the first Monday in October and continues until adjournment or until the next term begins.

Your Committee finds that the Supreme Court and the Intermediate Appellate Court have been in continuous session for several years due to their large number of cases. The provisions of this bill would conform the statutes to what has become the practice in the courts.

Your Committee amended the bill to correct a drafting error in the present law: on page 1, line 11, the words "making motions or" are deleted, and the word "issuing" is inserted because neither the Supreme Court nor the Intermediate Appellate Court makes motions. The courts instead issue orders based upon motions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1729-84, 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. 1729-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 31-84 on H.B. No. 1816-84

The purpose of this bill was to extend the repeal date of the Board of Dental Hygienists for another four years to December 31, 1988.

Your Committee, upon further consideration, has amended the bill to extend the repeal date of the Board of Dental Hygienists for another six years to December 31, 1990, rather than for four years.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1816-84, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1816-84, S.D. 1, C.D. 1.

Senators Cobb, Fernandes Salling and Henderson
Managers on the part of the Senate

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

Conf. Com. Rep. No. 32-84 on H.B. No. 1912-84

The purpose of this bill is to amend Title 26, Hawaii Revised Statutes, by adding a new chapter which regulates the health club industry.

Recently, the closing of various health club facilities has imposed financial hardships upon consumers and health clubs within the State. Existing statutory provisions are inadequate to address the problem or correct and prevent abuse or violations of a health club contract.

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

- (1) The words "whose principal purpose is" has been deleted from the definition of the term "health clubs";

- (2) Exemption (7) on page 3, line 9, has been amended from thirty per cent to thirty-five per cent; and
- (3) A new section (c) has been inserted, on page 5, line 2. This new language provides the consumer the means of establishing that the contract was timely canceled.

Your Committee notes that the statement of the escrow account to be furnished to the buyer shall be a blanket escrow account statement.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1912-84, 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. 1912-84, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Shito, Kawakami, Honda, Kim, Morgado, Wong and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 33-84 on H.B. No. 1784-84

The purpose of this bill is to require motor vehicle repair dealers to be registered before advertising.

It has come to the attention of the Motor Vehicle Repair Industry Board that unlicensed repair dealers have been advertising. This bill will curb the unlicensed repair dealers from advertising and making it unlawful to advertise without being licensed.

This bill also provides for the inclusion of rebuilt motor vehicle repairers to be within the purview of Chapter 437B, Hawaii Revised Statutes.

Your Committee, upon further consideration, has deleted section 2 of the bill, in light of pending legislation which proposed to regulate the rebuilding and restoration of wrecked motor vehicles.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1784-84, 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. 1784-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 34-84 on H.B. No. 1821-84

The purpose of this bill was to extend the Board of Chiropractic Examiners for another four years until December 31, 1988.

The bill provides that an applicant must provide evidence of having attended and graduated from a chiropractic college accredited by, any chiropractic accrediting agency recognized by the U.S. Department of Education

Your Committee, upon further consideration, has amended the bill by amending the effective date to read: "October 15, 1984". Your Committee finds that, in order to be fair to applicants who are currently awaiting their acceptance letters and who may have spent much time and money in doing so, should be exempt from the aforementioned proposed accreditation standard. This will thereby, serve to exempt students who formally begin their chiropractic studies prior to October 15, 1984.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1821-84, 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. 1821-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 35-84 on H.B. No. 2028-84

The purpose of this bill was to strengthen and clarify the law on practicing psychology in the State of Hawaii.

Your Committee, upon further consideration, has amended the bill by deleting all of the sections with the exception of a portion of section 9. Specifically, the language "meets the requirements set forth in paragraphs (1) and (2), or (3), and (4):" has been inserted following the word "applicant". Your Committee notes that this language was inadvertently deleted from section 465-7, Hawaii Revised Statutes, by the enactment of Act 95.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2028-84, 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. 2028-84, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Kiyabu, Kawakami, Kim, Tom, Yoshimura and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 36-84 on H.B. No. 2418-84

The purpose of this bill is to amend certain provisions of Chapter 442, Hawaii Revised Statutes, relating to chiropractors' educational and licensing requirements.

The bill would: 1) require that all three professional members of the Board be graduates from different chiropractic colleges; 2) require that any person appointed to the Board to have been in practice in this State for at least five years immediately prior to the date of appointment; 3) require licensees utilizing physiotherapy modality to have requisite physiotherapy training and be examined and passed by the Board; 4) provide terminology for the limitation, restriction and probation of a license; and 5) require any person making application for reinstatement or restoration of a license which has been revoked, suspended, restricted, limited, or placed under probation to complete such study or training as the board may require.

Your Committee, upon further consideration, has amended the bill by inserting language which would promote continuing education requirements, in order to encourage professional competence of licensees and to aid in the protection of the public. Accordingly, the following sections have been amended:

- 1) section 442-5, Hawaii Revised Statutes, on page 2, line 21, has been amended to read as follows:

"...duties[.]; promulgate by rule continuing educational requirements for reregistration of licenses designed to promote the continuing professional competence of licensees and protection of the public.";

- 2) New section 442-9(c), Hawaii Revised Statutes, on page 8, line 17, has been amended to read as follows:

"...granted, to complete an approved course of continuing education or to..."

- 3) section 442-11, Hawaii Revised Statutes, has been amended by inserting the following new language on page 11, line 4, between the words "\$15." and "The":

"If the board has established continuing education requirements for reregistration, no person holding a license shall be reregistered unless proof of compliance with the requirements is submitted to the secretary."; and

- 4) the following new language has been inserted on page 11, line 13, between the words "with" and "a":

"proof of compliance with the continuing education requirements, if any, and".

Your Committee, has also amended the bill by deleting language which would require all three professional members of the Board to be graduates of three different chiropractic colleges.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2418-84, 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. 2418-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 37-84 on H.B. No. 1629-84

The purpose of this bill is to enable the police department of each county to establish intoxication control roadblock programs by providing minimum standards for roadblock procedure, which shall be in accordance with rules adopted under chapter 91 of the Hawaii Revised Statutes and which shall be not more intrusive than standards and guidelines provided by the bill.

The bill provides minimum standards for roadblock procedures by:

- (1) Requiring that a judicial warrant must be obtained from a judge of the circuit court, or any district judge within the circuit, prior to operation of an intoxication roadblock;
- (2) Providing that every intoxication control roadblock program shall require that vehicles be stopped in a specified numerical sequence or pattern, located at fixed locations for a maximum three hour period with minimum safety precautions such as proper illumination, safe and secure holding areas, uniformed police officers with proper identification, adequate warning, termination at the discretion of a police officer to prevent traffic congestion, and a sufficient quantity and visibility of police officers to assure speedy compliance and to remove traffic.
- (3) Providing that the police departments may establish procedures to make roadblocks less intrusive than required by the minimum standards provided by the bill.

The bill further provides that the examiner of drivers will not issue any license to any person convicted of manslaughter resulting from the use of a motor vehicle, and to a person who, while unlicensed has within two years been convicted of driving while under the influence of intoxicating liquor.

The bill also amends the point penalty system for the evaluation of the operating records of all persons operating motor vehicles by increasing the point penalties for persons convicted of driving under the influence of intoxicating liquor.

Your Committee upon further consideration has amended the bill by deleting the requirement that a judicial warrant must be obtained prior to the operation of an intoxication roadblock. To require the police departments to obtain judicial warrants would unnecessarily hamper the establishment of effective roadblocks.

Your Committee also had deleted: (1) the amendments requiring the examiner of drivers to deny issuance of a license if a person has been convicted of manslaughter resulting from the use of a motor vehicle or if a person who, while unlicensed, within two years has been convicted of driving while under the influence of intoxicating liquor. Your Committee feels that these matters require further consideration before they are enacted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1629-84, 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. 1629-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 38-84 on H.B. No. 1989-84

The purpose of this bill is: 1) to enable the Family Court to receive into evidence any report concerning a court-ordered blood test which has a ninety-five percent or more probability of the alleged father's paternity; 2) to specify that the report may include other medical evidence on paternity; and 3) to provide the right to all parties to rebut the results of any blood test and any report concerning a blood test.

Your Committee finds that advances in technology have made blood tests, which indicate the probability of paternity, a determination factor in many cases. Blood tests in paternity actions have reached such an exact science that most of the procedures are now standardized and routine. Therefore, the use of a witness to establish a foundation for the admission of a blood test will be unduly burdensome and costly in most cases because of the high reliability in the way these tests are conducted. Accordingly, your Committee has amended the bill by deleting the provision that only reports with a ninety-five percent or more rate of probability shall be admitted into evidence because your Committee is satisfied that all blood tests have achieved the same level of trustworthiness of process and procedure.

Your Committee has amended the bill to provide an opportunity for an alleged parent to object to the admission of the report and for the Family Court to hold a hearing to determine whether the report is to be admitted with or without foundational witnesses.

Your Committee also has made technical, non-substantive amendments for style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1989-84, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1989-84, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 39-84 on H.B. No. 1729-84

The purpose of this bill is to extend time for filing an involuntary hospitalization petition when a voluntarily admitted patient requests a discharge on a weekend or holiday, to provide that the court may adjourn or continue a hearing if the subject fails to contact an attorney and the court finds that it is in the interest of justice to do so, and to clarify the language of the current law and conform it to recommended drafting style.

Your Committee concurs with the finding that the proposed extension for filing the petition for involuntary hospitalization will enable physicians more time to evaluate their patients and complete the necessary hospital administrative requirements.

Your Committee also agrees that authorizing the court to adjourn or continue the hearing if the subject fails to contact an attorney ensures that the subject will seek legal counsel to adequately defend the action.

Your Committee upon further consideration has amended the bill with technical, non-substantive corrections in pages 1, 2, 17, 18, 19, 21, 22, 23, and 28 of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1729-84, 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. 1729-84, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 40-84 on H.B. No. 2163-84

The purpose of this bill is to 1) create the offense of promoting intoxicating liquor to a minor, which shall be a misdemeanor; 2) add the definition of intoxicating liquor to Section 712-1240, Hawaii Revised Statutes, regarding offenses related to drugs and intoxicating compounds, and 3) amend Section 712-1252, Hawaii Revised Statutes, regarding prima facie evidence of knowledge of character, nature, or quantity of substance, or age of transferee to include intoxicating liquor.

Present Hawaii law prohibits the sale or furnishing of intoxicating liquor to minors under certain circumstances. The prohibition covers distribution to minors in both the social noncommercial and commercial settings: 1) Hawaii Revised Statutes Section 281-4(c) prohibits the sale or furnishing of liquor to a minor in a commercial establishment by a licensed or unlicensed person who has knowledge that a person is a minor; 2) Hawaii Revised Statutes Section 281-78(a)(2) provides that at no time can a licensee sell or furnish intoxicating liquor to a minor; and 3) Hawaii Revised Statutes Section 281-101.5 prohibits adults from purchasing intoxicating liquor for consumption or use by a minor. Violating any of these statutory sections constitutes a petty misdemeanor. Existing law does not, however, prohibit adults, other than licensees under Chapter 281, from giving liquor to minors.

The bill would make it illegal for a person to knowingly 1) provide intoxicating liquor, via any means, to a minor, or 2) allow a minor to possess intoxicating liquor on property under that person's control.

The bill would also allow a defendant charged with promoting intoxicating liquor to a minor to raise the following defenses:

- (1) the intoxicating liquor was an ingredient in medicine prescribed for treatment purposes; or
- (2) the intoxicating liquor was provided as part of a religious ceremony; or
- (3) the defendant provided the intoxicating liquor to the minor with the belief that the minor had attained the age of majority; or
- (4) the defendant provided the intoxicating liquor to the minor with the express consent of the parent or legal guardian and with the belief that neither the minor nor any other minor would consume any portion of the substance; or
- (5) the defendant provided the intoxicating liquor to the minor with the express consent of the parent or legal guardian with the belief that the minor would consume the substance only in the presence of the parent or legal guardian.

Your Committee finds that there is a need to reduce the number of drunk drivers on Hawaii's roads and the number of deaths resulting from accidents involving drunk driving. Your Committee finds that the passage of this bill will bring about a reduction of alcohol consumption by minors and a corresponding reduction in crime and in deaths and injuries.

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

- (1) Removing "nor any other minor" as an element of the fourth defense for the purpose of clarity;
- (2) Making a technical amendment to the bill for the purpose of style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2163-84, 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. 2163-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 41-84 on H.B. No. 2142-84

The purpose of this bill is to provide for the assessment of alcohol dependence and the need for treatment for persons convicted of a second or third offense of driving while under the influence of alcohol in addition to other penalties under section 291-4, Hawaii Revised Statutes. Costs for assessment and treatment will be paid by the offender. However, the court may waive assessment where extenuating circumstances exist.

The effective date of this bill, July 1, 1985, will provide the Department of Health with the necessary time to prepare for this program.

Your Committee finds that alcoholism is a very serious problem and that protecting the public from those persons who abuse alcohol and drive while under its influence is a major concern. The assessment of alcohol dependence and the need for treatment by a credentialed substance abuse counselor is a viable approach to reduce the incidence of drinking drivers.

Your Committee upon further consideration has made the following amendments to H.B. No. 2142-84, H.D. 1, S.D. 2.:

- (1) In page 4, line 5, the Committee has amended the intent of the bill to provide that "The court may require the offender to obtain appropriate treatment," rather than making it mandatory for the offender to obtain the recommended treatment of the substance abuse counselor. The Committee finds that there may be circumstances which the court should consider before deciding whether an offender should be referred to treatment. The discretion to order treatment should remain with the court.
- (2) In conjunction with the above amendments the Committee has amended the bill by deleting lines 8-10 in page 4.
- (3) The Committee upon further discussion has agreed to make numerous amendments to Sections 291-4 and 291-5 to enable the State to qualify for federal funds under Public Law 97-364, Title 23, U.S.C. Section 408. Approximately \$250,000 will become available to the State for alcohol programs upon enactment of these amendments.
- (4) Section 4 has been amended to provide that those amendments relating to eligibility for federal funds will become effective upon approval and that subsection (c) of Section 291-4 as set forth in Section 1 of the Act will take effect on December 31, 1984. The Committee expects that the rules and regulations necessary for the certification of substance abuse counselors will be completed by this date.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2142-84, 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. 2142-84, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 42-84 on H.B. No. 538

The purpose of this bill is to establish that it will be a criminal offense for

any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. This bill provides that an imitation controlled substance is a substance that is not a controlled substance but which by dosage unit, appearance (including color, shape, size, and markings), or by representations made, will lead a reasonable person to believe that the substance is a controlled substance. Manufacture or distribution of an imitation controlled substance shall be a class C felony. Possession of an imitation controlled substance is subject to §712-1249 in which case the offense will be a violation.

The bill further provides that there shall be no civil or criminal liability under this new chapter for any person registered under chapter 329 of the Hawaii Revised Statutes, and that all imitation controlled substances shall be subject to forfeiture pursuant to the procedure set forth in section 701-119 of the Hawaii Revised Statutes.

Your Committee concurs with the finding that the distribution of look-alike drugs is a major nationwide drug abuse problem and that there is a need for effective laws for the control of the manufacture, distribution, and possession of an imitation controlled substance. The primary target for the manufacture and distribution of imitation controlled substances are usually college, high school, and even junior high school students. Overdoses of these substances have led to serious injuries and deaths.

Your Committee upon further consideration has amended the bill by providing that manufacture and distribution of an imitation controlled substance shall be a misdemeanor, while the distribution of an imitation controlled substance to a minor shall be a class C felony. Your Committee feels that minors should be afforded more protection by the law because of their vulnerability to this kind of exploitation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 538, 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. 538, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 43-84 on S.B. No. 1766-84

The purpose of this bill is to provide rules and standards for motor vehicles weighing less than 10,000 pounds used in the transportation of pupils of a day care center, child care facility, headstart program, and preschool, or of school athletes and school athletic staffs to and from school related athletic activities.

Currently, to comply with the recommendations of the National Safety Board, which have been adopted by the Department of Transportation (DOT), day care centers, child care facilities, headstart programs and preschools are required to purchase a federally approved vehicle, which costs in excess of \$30,000. Given the tight fiscal constraints under which most of these centers and facilities operate, the capital expense involved in such a vehicle purchase would be prohibitive. The National Transportation Safety Board recommendations, however, took into account factors such as ice, snow, and distance which do not affect driving safety conditions in Hawaii. Purchasing a vehicle costing in excess of \$30,000, would result in organizations cancelling excursions, which are an important component of a curriculum that seeks to adequately prepare children for entrance into a school setting.

Your Committee agrees that it is necessary to provide safe transportation for Hawaii's children and that it is important to establish vehicle safety rules that may be feasibly implemented by the aforementioned organizations.

Your Committee has amended the bill by allowing the DOT to adopt rules and standards for school buses and vans weighing less than 10,000 pounds, and by establishing interim rules until the adoption of DOT rules.

Specifically, the bill has been amended by deleting the proposed new subsection (c) of section 286-181, which would have established rules for school

vehicles weighing less than 10,000 pounds based on standards used for vehicles engaged in transporting persons on public highways in furtherance of a commercial or educational enterprise (P.U.C. regulations). These rules are the basis of the interim rules to be utilized until the DOT adopts its rules and standards. The interim rules, which are set forth in section 3 of the conference draft, also specify that buses and vans shall be properly identified with the words "SCHOOL BUS", that bus and van drive shafts be protected by metal guards, and that certain other safety concerns are to be governed by DOT rules. The interim rules also allow affected organizations two years to comply with vehicle color requirements.

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 Conference is in accord with the intent and purpose of S.B. No. 1766-84, 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. 1766-84, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Taniguchi, Hashimoto, Ige, Graulty, Leong, Say and Dang
Managers on the part of the House

Representatives Hashimoto and Graulty did not sign the report.

Conf. Com. Rep. No. 44-84 on S.B. No. 2026-84

The purpose of this bill is to add a new part to chapter 708 of the Penal Code relating to Computer Crime. The bill sets forth definitions for relevant terms and establishes two separate offenses pertaining to computer crimes: computer fraud and unauthorized computer use. Each offense is further classified into degrees with respective penalties for each degree of the offense.

A person commits the offense of computer fraud where he accesses or causes to be accessed any computer, computer system, computer network, or any of its parts:

- 1) with the intent to devise or execute any scheme or artifice to defraud;
- 2) with the intent to obtain money, property, or services by means of embezzlement or false or fraudulent representations; or
- 3) with the intent to obtain unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network with the intent to wrongfully damage or wrongfully enhance the credit rating of any person.

A person commits the offense of unauthorized computer use where he intentionally and without authorization accesses, alters, damages, or destroys any computer, computer system, computer network, computer program, computer software, or any data stored therein. The monetary amount set forth under this offense reflect the market value of the computer, computer system, computer network, computer program, computer software, or any data stored therein.

Your Committee finds that as technical capabilities and the level of resources available to individuals become more advanced, computer related crimes are becoming a significant problem for government and the private sector. The opportunities are great for computer related crimes in financial institutions, government programs, government records, and other business enterprises through the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the alteration or destruction of computerized information or files, and the stealing of financial information data and other assets.

According to statistics, the average "white collar" embezzlement nets less than \$30,000, while the average computer crime is estimated to net in excess of \$600,000. Existing laws have proven inadequate to effectively prosecute or deter computer crimes.

Your Committee upon further consideration has made the following amendment to S.B. No. 2026-84, S.D. 1, H.D. 1:

(1) In page 5, lines 11-13: The language in the penalty provision has been changed to allow the court to impose either the statutory fine or double damages irrespective of whether terms of imprisonment are imposed.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2026-84, 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. 2026-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 45-84 on H.B. No. 1796-84

The purpose of this bill is to clarify that the expenses and fees incurred by the Hawaii Housing Authority or its designee in arbitrating lease rent renegotiations pursuant to Chapter 519, Hawaii Revised Statutes, shall be paid equally by lessors and lessees.

Currently, the law provides that in the event parties to a lease are unable to achieve an agreement under any lease rent reopening provision, the Hawaii Housing Authority or its designee shall arbitrate and its findings shall be binding and conclusive. Although lease documents generally state that lessors and lessees shall be responsible for their pro-rata share of all costs incurred during any arbitration proceedings, the absence of specific language in the law may, and has been, misconstrued to mean that the State should bear the burden of all such expenses.

Specifically, the bill sets forth certain provisions for arbitration proceedings under subsection 519-2(b) and 519-3(b), Hawaii Revised Statutes, relating to residential leases and to leases of real property by cooperative housing corporations, respectively. Provisions of the bill include: collection of an advance deposit from lessors and lessees; monthly payments of expenses and fees; clarification of procedures for the allocation of arbitration costs in the event of more than one lessor or lessee to an arbitration proceeding; loss of certain rights and remedies by a party failing to comply with the provisions for payment; and a definition of "arbitration proceedings" to clarify the services to be paid for by lessors and lessees.

Your Committee upon further consideration has made clarifying amendments to paragraph (b) (1) of Sections 1 and 2 of S.D. 1, as follows:

- (1) The phrase, "which amount shall be determined by the authority," is added to page 1, line 9 and page 3, line 20 of the bill following the words "An advance deposit," and the word "monthly" is deleted from those same lines;
- (2) The phrase "of the authority or its designee for" is added to page 1, line 10 and page 3, Line 21 of the bill following the words "expenses and fees", and the words "resulting from" are deleted from those same lines;
- (3) The words "All additional" replace the words "In addition, all" on page 1, line 12 and page 3, line 23 of the bill;
- (4) A period is inserted following the word "lessor" on page 1, line 15 and page 4, line 3 of the bill; the remainder of each sentence following said insertion is deleted; and a new sentence which reads as follows is inserted: "These additional expenses and fees shall be subject to monthly billings or other arrangements which may be specified by contract.";
- (5) The following sentence, from page 2, lines 5 through 7 and page 4, lines 8 through 10, is deleted: "The advance payment will be subject to monthly billings or other arrangements which may be made by

contract."; and

- (6) A single hyphen was added to page 4, line 6 of the bill between the words "one" and "half" for purposes of consistency with the rest of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1796-84, 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. 1796-84, H.D. 2, S.D.1, C.D. 1.

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

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

Conf. Com. Rep. No. 46-84 on H. B. No. 1799-84

The purpose of this bill is to amend Section 516-51, Hawaii Revised Statutes, to preclude an opposing or adverse party from introducing as evidence in any action brought under Chapter 516, Hawaii Revised Statutes, the offers, appraisals or other substances or negotiations after a leasehold tract has been designated for conversion to fee simple and when these matters were not prepared for use in trial. It also provides for a moratorium on lease rent increases for privately owned residential houselots, to take effect upon passage of the bill through June 30, 1985, with an exemption from said moratorium, and with the provision of a renegotiation formula, for lessees required to renegotiate for financing purposes.

The intent of the first provision of the bill is to encourage open and honest discussions during preliminary negotiations for fee simple conversion by assuring lessors and lessees that information disclosed during these negotiations cannot be used against them in proceedings brought under Chapter 516, Hawaii Revised Statutes. The intent of the second provision of the bill is to place lessors and lessees "on hold" with regard to scheduled renegotiations in the coming year, except where renegotiations are required for financing purposes, while further study of the lease rent renegotiation issue takes place.

While there is merit to both aspects of the second provision, difficulties arise as to both. A statutory moratorium on residential lease rent increases appears to be unnecessary in light of the major lessors' agreement to voluntarily abide by such a moratorium in the absence of a statutory provision to that effect. Moreover, lessees, for whose benefit the moratorium was sought, through their representatives, took a position against the moratorium unless certain "safeguards" were incorporated into the bill. Further, your Committee was unable to arrive at a satisfactory resolution of the policy issues regarding providing a protective formula to limit the lease rent increases of a lessee group previously unaddressed in the lease rent renegotiation chapter, namely those lessees having to renegotiate their residential lease rents for financing purposes.

Given these and other concerns, your Committee has amended S.D. 1 to delete Sections 2, 3, and 4, pertaining to the findings and purpose for the aforementioned moratorium, to the provisions of said moratorium, and to a severability provision related to said moratorium. Your Committee has renumbered Sections 5 and 6 to Sections 2 and 3, accordingly.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1799-84, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1799-84, S.D. 1, S.D. 1.

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

Representatives Hirono, Apo, Baker, Chun, Hagino, Ige, Kiyabu, Leong,
Morgado, Shito, Tam, Tom, Ikeda and Jones
Managers on the part of the House

Representative Baker did not sign the report.

Conf. Com. Rep. No. 47-84 on H.B. No. 2597-84

The purpose of this bill is to amend Section 359G-4.1, Hawaii Revised Statutes, to permit the Hawaii Housing Authority ("HHA"), on behalf of the State or in partnership, to develop housing projects which are exempt from development and general plans adopted by the various counties. It also provides that the final plans and specifications of such HHA projects shall be deemed approved by a county's legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications.

With regard to the first provision of the bill relating to planning, it is the intent of Section 359G-4.1, Hawaii Revised Statutes, to provide an expedited process for government-assisted housing projects. To that end, a comprehensive exemption from laws, ordinances, and regulations of governmental agencies under certain conditions is warranted. Your Committee agrees with the previous findings of both Houses that to require that HHA projects undergo a duplicative and lengthy procedure in order to obtain a planning exemption is not consistent with the intent of the statute and that clarifying legislative intent by inserting the word "planning" into the litany of regulations from which HHA projects may be exempted is necessary to avoid misinterpretations regarding said intent.

With regard to the second provision of the bill relating to final plans and specifications, your Committee notes that it is inevitable that field conditions will necessitate minor changes in the plans as work progresses on any housing project, and that the bill recognizes this reality by allowing such minor changes without requiring the final plans and specifications to be reconsidered by the county legislative body.

Your Committee upon further consideration has amended Section 1, paragraph (a) of S.D.1 to delete the comma after the word "development" on page 1, line 9. It was found that this was necessary to properly enumerate the types of rules and regulations from which HHA projects could possibly be exempted under Section 359G-4.1, Hawaii Revised Statutes. Said exemptions should be understood to read as follows: planning; zoning; construction standards for subdivisions; the development and improvement of land; and the construction of units thereon.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2597-84, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2597-84, S.D. 1, C.D. 1.

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

Representatives Hirono, Say, Andrews, Kiyabu-Saballa, Okamura, Tam and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 48-84 on S.B. No. 1450

The purpose of this bill is to specifically allow the chairperson of the Hawaii Paroling Authority to serve in that capacity for an additional two years, upon completion of his two consecutive four-year terms, and to allow that person to remain a member on the Hawaii Paroling Authority for no more than ten consecutive years.

The chairperson of the Hawaii Paroling Authority must be able to develop positive working relationships with a broad range of people and organizations and effectively administer the adjudicatory functions of the board. For example, he must be able to gain the respect of offenders, work closely with the administration and staff of the Corrections Division, and other criminal justice agencies in furtherance of their objectives. He must also be sensitive and responsive to the sentiments of the entire community.

Your Committee recognizes that it requires a great deal of time, effort, and patience for the chairperson to successfully cultivate these relationships and that his cumulative experience and continuity in office are critical to the effective functioning of the Hawaii Paroling Authority. Qualified persons may be deterred from applying from that position because their length of tenure on the

commission would not be sufficient to attract persons employed in secure careers.

Your Committee finds that the public interest is better served by extending the chairperson's term for a reasonable period so long as efficiency is maintained. Such efficiency will be re-evaluated in the reappointment process. Further, an extended term will encourage greater numbers of qualified candidates.

Your Committee notes that the Hawaii Public Employment Relations Board, an adjudicatory body, provides for its board members to continue in office for as long as efficiency is demonstrated. The Public Utilities Commission members may serve for two six-year terms, or twelve consecutive years.

Accordingly, your Committee has amended S.B. No. 1450, S.D. 1, H.D. 1 to:

- (1) Extend the tenure of the chairperson of the Hawaii Paroling Authority for an additional two years. Thus, upon expiration of the chairperson's two consecutive four year terms, he could be reappointed for an additional term.
- (2) Extend the potential membership of the chairperson of the Hawaii Paroling Authority from ten to twelve years. This is consistent with the change in (1).
- (3) Provide that the limitations set forth in this bill shall apply to the previous experience of the incumbent chairperson.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1450, 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. 1450, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Honda, Andrews, Hayes, Lardizabal and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 49-84 on H.B. No. 177

The purpose of this bill is to amend the Hawaii State Planning Act by removing the requirements of conformance by the State and Counties with the overall theme, goals, objectives, policies and priority directions of the Act. State programs would only have to "consider" the overall theme, goals, objectives, policies, priority guidelines and functional plans. Furthermore, this bill has amended all references to "priority directions" to read "priority guidelines."

Your Committee has carefully reviewed the relationships among the overall theme, goals, objectives, and policies; the priority directions; the functional plans; county general plans and development plans; and state programs. The primary concern in this review was the meaning of "be in conformance with the overall theme, goals, objectives, policies, and priority directions," as stated in existing law, and "shall utilize as guidelines," as proposed to apply to the functional plans. There is a concern that a decision or state program will be subject to legal attack and judicial invalidation if one or more, but not all, goals, objectives, and policies are acted upon in the decision or program. This could occur when different goals, objectives, or policies appear to be in conflict, as applied to a specific case or program. Your Committee has thus included a definition of "be in conformance" as follows:

- (14) For the purposes of sections 226-52, 226-57, and 226-62, "conform," "in conformance with this chapter," or "be in conformance with the overall theme, goals, objectives and policies" means the weighing of the overall theme, goals, objectives and policies of this chapter and a determination that an action, decision, rule or state program is consistent with the overall theme, and fulfills one or more of the goals, objectives or policies of this chapter.

Under this definition, the decision-maker must take two steps to be in conformance: (1) weigh the overall theme, goals, objectives, and policies as they

apply to the particular decision; and (2) make a determination that the decision is consistent with the overall theme, and also fulfills one or more of the goals, objectives, or policies of the chapter. The fact that there are other goals, objectives, or policies which might have been fulfilled, but were not, does not subject the decision to legal challenges based on the provisions of Chapter 226.

Similarly, there is concern that the functional plans will be interpreted to be legal mandates. It is the position of your Committee that the functional plans are not legal mandates, nor legal standards of performance. It is the position of your Committee that a decision or program which does not follow a functional plan, or which appears to be in conflict with a functional plan, is not therefore subject to legal attack or judicial invalidation based on the provisions of Chapter 226. Your Committee has thus defined "guidelines" as follows:

- (15) For the purposes of this chapter, "guidelines" means a stated course of action which is desirable and should be followed unless a determination is made that it is not the most desirable in a particular case; thus, a guideline may be deviated from without penalty or sanction.

Under this definition, functional plans describe courses of action which are desirable and should be followed. However, the decision-maker may make a determination that in a particular case, that course of action is not the most desirable. This determination must be made openly, and it must include an explanation as to why the deviation is necessary. Such a deviation, however, is not subject to legal attack or judicial invalidation based on the provisions of Chapter 226.

With these definitions, H.B. No. 177, H.D. 1, S.D. 1, C.D. 1 provides the following linkages between the elements of the statewide planning system. State functional plans and state programs not covered by functional plans shall be in conformance with the overall theme, goals, objectives, and policies of Chapter 226. Priority directions are retitled "priority guidelines." The state functional plans shall conform with the priority guidelines, and state programs not covered by functional plans shall utilize the priority guidelines as guidelines. The state functional plans shall be utilized as guidelines by state programs.

In regard to the counties, the county general plans and development plans shall further define the overall theme, goals, objectives and policies of Chapter 226, and shall further define and be guided by the priority guidelines. The formulation and amendment of the functional plans "shall take into consideration" the county general plans and development plans, and the amendment of the county general plans and development plans shall take into consideration the functional plans. Your Committee finds that the term "consideration" should not be taken lightly. Your Committee finds that every effort should be taken on the part of the county and state planning bodies to work within the framework provided by the respective county general plans, development plans, and state functional plans in their formulation, amendment and implementation.

Your Committee has thus established linkages which are stronger, with a higher standard of conformance, for state functional plans and programs than for the county general plans and development plans. The county plans and functional plans are also deemed to be of equal importance in their relationship with each other.

Your Committee finds that H.B. No. 177, H.D. 1, S.D. 1, deletes the role of the policy council in regard to the resolution of conflicts between proposed functional plans and general plans of the counties. Your Committee finds that the policy council currently performs a beneficial role in the resolution of conflicts and differences between county general and state functional plans. The continued existence of this role has been deemed necessary by your Committee. H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, therefore, reinstates this function of the policy council.

Your Committee further finds that H.B. No. 177, H.D. 1, S.D. 1 repeals Section 226-62, Hawaii Revised Statutes, regarding the role of the Hawaii State Planning Act in the formulation, administration, and implementation of state programs. Your Committee finds that this linkage is of vital importance to the overall implementation of state programs. Your Committee has therefore reinserted this section into the bill.

Your Committee has also amended this bill by making several technical, non-

substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 177, 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. 177, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Andrews, Apo, Kiyabu, Leong, Morgado, Tom and Jones
Managers on the part of the House

Representative Jones did not sign the report.

Conf. Com. Rep. No. 50-84 on H.B. No. 271

The purposes of this bill are to make permanent the advisory committee for each state functional plan and to add to the duties of the advisory committee the rendering of advice and assistance in implementing, monitoring, and updating the functional plan.

Under the Hawaii State Planning Act, the advisory committee which provides assistance and advice on the formulation of each state functional plan is to terminate after adoption of the plan by the legislature. Your Committee, however finds that formulation and adoption of a functional plan does not end the planning process under the Act. What is done with the functional plan is just as important as adoption of the plan, if not more so. Proper and effective implementation, monitoring, and updating of the functional plan by the lead agency requires the assistance and advice of concerned experts and private citizens. Thus, your Committee finds that the advisory committee for each functional plan should be made permanent if another advisory body which meets the criteria under the Act is not already established.

Your Committee has amended the bill by making a technical, nonsubstantive change.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 271, 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. 271, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Andrews, Morgado, Kiyabu, Apo, Tom, Leong and Jones
Managers on the part of the House

Representative Jones did not sign the report.

Conf. Com. Rep. No. 51-84 on H.B. No. 1933-84

The purpose of this bill is to provide needed improvements to the health planning and development law and add as a principle function of the state health planning and development agency (SHPDA) the responsibility for controlling increases in health care costs.

One of the most compelling problems facing our society is the high cost of health care. It now consumes more than ten per cent of the gross national product, and there is every reason to believe that if the trends of the last two decades continue, the share will grow larger to the detriment of economic development and social welfare expenditures.

Your Committee is being made aware of the urgent reasons to seek to control health care costs, whose rapid rise is so great as to disrupt society's resources and threaten to differentiate among economic classes as to the quality of care. Action on the part of the Legislature is a necessity and, even more, an obligation.

In the current national debate over health care cost control, recommendations for changes in health care financing fall into two groups: competitive and regulatory. Competitive strategies for the most part remain untried or, where

they are proposed, are fiercely resisted by professional groups.

Regulatory strategies have a longer track record, but not a very satisfactory one. One of the oldest, health facilities planning and capital expenditure control, remains a subject of debate as to efficacy. Part of the reason for this is that the legislation which created health planning has diverse goals, including both capital expenditure control and improvement of access to health care services.

Hawaii's existing health planning and development law embodies this same confusion of goals, inasmuch as it is closely modeled on the national legislation. Your Committee has concluded that the operations of SHPDA will be improved by clearer statements of purpose in the law. This bill intends to accomplish the purpose of providing proper guidance on matters of cost control to SHPDA without doing violence to its existing structure.

Under this bill, the existing health planning law is amended to provide: (1) a new function of cost control as a principle duty of SHPDA, with additional authority to perform this function; (2) a requirement that SHPDA report annually to the legislature on methods of controlling health care costs; (3) a planning process that looks toward the economical delivery of health care; (4) new and more stringent criteria for the granting of certificates of need for health care services and facilities; and (5) elimination of existing lengthy and ill-understood certificate of need review criteria.

Your Committee upon further consideration has made the following amendments to H.B. No. 1933-84, H.D. 2, S.D. 2:

- 1) The appropriation for SHPDA has been increased to \$216,000 which will provide for five staff positions for SHPDA, to be filled effective October 1984, to enable SHPDA to implement the new functions and duties provided by this bill.
- 2) The definition of "physician" on page 6 of the bill, as received, has been amended to exclude from its coverage doctors of naturopathy licensed under Chapter 455, Hawaii Revised Statutes.
- 3) A typographical error has been corrected on page 18, line 7. "Requires" has been amended to "require".

This bill contains a provision requiring SHPDA to assess existing health care services and facilities to determine whether there are redundant, excessive, or inappropriate services or facilities and to make public findings of any that are found to be so; however, your Committee believes that SHPDA should have additional authority to institute corrective action in such cases. Your Committee was unable to agree on the manner in which this additional authority should be granted.

Therefore, it is the intent of your Committee that during the 1984 interim, SHPDA shall study and make recommendations of alternative ways of reducing or eliminating redundant, excessive or inappropriate facilities or services. To accomplish this, SHPDA shall consider at least the following: alternative programs that could be used to achieve these ends; new statutory authority necessary to implement the programs; criteria for making such decisions; and the appropriate process for making and implementing such decisions, alternatives for which include public hearings, an appeals process, and the use of SHPDA's advisory bodies.

Your Committee intends that SHPDA shall report its findings and recommendations to the Legislature at least ten days prior to the convening of the Regular Session of 1985.

Your Committee expects SHPDA to aggressively implement its new functions and duties and anticipates that future sessions of the Legislature will be enlivened by informed discussions of means to control relentlessly rising health care costs.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1933-84, 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. 1933-84, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Kiyabu, Chun, Graulty, Tam, Wong, Yoshimura and Jones
Managers on the part of the House

Representatives Graulty, Yoshimura and Jones did not sign the report.

Conf. Com. Rep. No. 52-84 on House Bill No. 2203-84

The purpose of this bill is to require that all storage water heaters sold or installed in Hawaii after December 31, 1984, meet the energy efficiency standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Incorporated (ASHRAE), Standard 90. Currently, some county building codes require water heaters with energy efficiency standards equivalent to ASHRAE standards. But, sale of nonconforming water heaters may be installed to replace old water heaters since no building permit is required for existing structures.

Your Committee upon further consideration has made the following amendments to H.B. No. 2203-84, H.D. 2, S.D. 1:

- (1) The last day to sell water heaters not complying with ASHRAE 90 Standards is changed from December 31, 1984 to June 1, 1985 to allow retailers and wholesalers enough time to sell out all noncompliance water heaters before the last day to sell.
- (2) The bill has been amended to allow Hawaii wholesalers to sell noncomplying hot water heaters out of state.
- (3) Wording has been added so that retailers and wholesalers cannot purchase more stock of non-compliance water heaters after the law is enacted.

New subsection (a) of the new section to be added to Chapter 196, Hawaii Revised Statutes, appropriately designated as set forth in Section 1 of the bill is amended to read as follows:

"No new storage hot water heater which is not certified as meeting the energy efficiency standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., as set forth as the current ASHRAE 90 Standard, shall be sold or installed in the State after June 1, 1985; provided, however, that nothing contained herein shall prevent sales from being made in the State for use outside the State. Upon effective date of this Act, no retail seller or distributor shall increase their inventory of storage hot water heaters which are not certified as being in compliance with the current ASHRAE 90 Standard, and all storage hot water heaters sold after June 1, 1985 shall be certified by the manufacturer, or the retailer, or both, as being in compliance with the current ASHRAE 90 Standard."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2203-84, 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. 2203-84, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Okamura, Bunda, Crozier, Kiyabu-Saballa, Menor, Nakata
and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 53-84 on H.B. No. 267

The purpose of this bill is to redefine petroleum shortage, expand the Governor's emergency powers during such a shortage, and establish a hardship set-aside system of petroleum products during a shortage.

Section 125C-2, Hawaii Revised Statutes, currently defines a shortage only in terms of a decrease in the supply of available gasoline. This bill defines a shortage as a gap between supply and demand and would change the definition

of shortage to apply to a broader range of petroleum products.

The bill also strengthens the State's capabilities of managing shortages of petroleum products by enabling the Governor or his authorized representative to exercise control over petroleum substitutes in the generation of electricity and blending of gasohol.

This bill also establishes a State hardship set-aside program to control no more than five per cent of available fuels to protect the public's health, safety, and welfare, to maintain essential services, and to aid agricultural and other vital and competitive industries. Due to the lack of federal guidance for energy emergency preparedness and the expiration of the Federal Emergency Petroleum Allocation Act in 1981, the State must establish its own statutory basis for an emergency set-aside system.

Your Committee finds that a set-aside program for the control of a small portion of available fuels during a petroleum products shortage is essential for the maintenance of the health, safety, and welfare of the people of Hawaii. During the first six months of the 1973-74 shortage, Hawaii's federally authorized set-aside program avoided an estimated \$10 million potential loss in income and the probable failure of over 100 businesses.

Your Committee upon further consideration has amended the bill by deleting paragraph (3) of Section 125C-3, Hawaii Revised Statutes, found on page 6 of S.B. No. 267, H.D. 2, S.D. 1, which would permit the Governor or his authorized representative to:

"(3) Direct utilities to minimize petroleum consumption by contracting for all available power generated by non-regulated producers from non-petroleum sources."

Your Committee finds that because this provision does not address the matter of price to purchase power, the utility would be required to purchase power regardless of the price charged. Since this requirement would have serious economic implications on the utility as well as on the consumer, this provision has been deleted.

Your Committee has further amended the bill by renumbering the succeeding paragraphs in Section 4, on pages 6 and 7 to accommodate the deletion of paragraph 3.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 267; 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. 267, H.D. 2, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 54-84 on S.B. No. 1575-84

The purpose of this bill is to clarify and update several statutory provisions relating to the regulation of child care facilities and to establish policies for public access to records relating to child care facilities.

Recent unfortunate occurrences, here and on the mainland, have underscored the importance of appropriate regulatory controls to assure the health, safety and welfare of young children in child care facility environments. The fact that the State licenses child care centers and baby sitting facilities means that government assumes a responsibility for safeguarding young children from potential harm. Given the variety and number of facilities involved and the thousands of children in this State that parents entrust to others daily, the State's responsibility must be effectively fulfilled. There must be continuing confidence that the State is regulating in a way and in areas where reasonable protection is being provided to children. However, State regulation must not be so onerous as to raise child care costs beyond the reach of parents or discourage qualified persons from providing needed services.

Your Committee believes that at a time when the public has a heightened awareness and concern over the welfare and safety of children in all settings, it is timely to review the child care regulatory program from a broad perspective with the objective of developing policies to improve regulation. Therefore, your Committee requests the Legislative Auditor to assist the Legislature by conducting a study of the legal framework governing the program, the current scope and emphasis of regulation, procedures to assure that those who care for young children do not have criminal records indicating potential danger to children, and other aspects to improve the program. The Legislative Auditor is further requested to submit a report of the findings and recommendations to the 1985 Regular Session.

In addition, your Committee believes that there should be further analysis of the need for an information and referral system for child care services. Such a system could provide an efficient means for parents and others to obtain timely information indicating which child care facilities have vacancies in particular communities, which facilities provide care for children after school, etc. Services might also include a training or education component to assist providers in keeping up with developments in child care and to help parents and guardians select child care facilities for their children. The Office of Children and Youth is requested to conduct an analysis as to whether an information and referral system is needed and, if so, to develop a preliminary design as to how such services will be delivered, the organizational arrangements, and the resources required. The analysis and preliminary design are to be submitted to the Legislature for its consideration in the 1985 Regular Session.

Upon further consideration, your Committee has amended the bill as follows:

- (1) Section 2, pertaining to the definition of "child care facilities", has been amended to delete references to "in-kind compensation" and to make clarifying language changes in the description of types of facilities included in the definition.
- (2) Section 8, relating to records which child care facilities and the Department of Social Services and Housing are required to maintain, has been amended as follows:
 - (A) Information maintained at child care facilities concerning individual children and their parents or relatives shall continue to be confidential.
 - (B) In addition to maintaining records pertaining to the results of licensing inspections, complaints that allege violation of child care facility rules, the results of investigations, and the resolution of complaints, the department shall also maintain records of notifications to licensees of deficiencies and of corrective action taken. These records are to be maintained for the current year and the prior two years and are to be available for public inspection.
 - (C) Concerning the records of home baby sitters, sensitive personal information or information provided to the department with the understanding that it would not be publicly divulged shall be obliterated or deleted prior to making the records available to the public. It is expected that the clerical problem of having to obliterate or delete confidential material will be corrected as the department proceeds to redesign its forms and procedures to avoid the inclusion of confidential information on records which are required to be made public.
 - (D) The department is not to divulge the names or identifying information on individuals who file complaints against child care facilities.
 - (E) The department may withhold information on a complaint for which an investigation is being conducted for not more than ten working days. However, in the case of investigations relating to criminal offenses, no information is to be released until the investigation is completed and the Director of Social Services determines that no legal proceeding shall be jeopardized by its release. This is to assure that in serious criminal cases such as rape or sexual molestation, disclosure of aspects of the investigation will not hinder subsequent prosecution.

Your Committee has further amended the bill to make technical and language changes for purposes of clarity and style which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1575-84, 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. 1575-84, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Ige, Hashimoto, Apo, Hee, Leong and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 55-84 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. The bill, however, provides exemptions from this prohibition for (1) housing projects specifically developed for elderly persons sixty-two years of age or older, and (2) those condominiums and cooperative housing corporations whose bylaws, covenants, administrative provisions, organizational documents, or proprietary leases place restrictions based upon parental status.

With the current rental vacancy rate at less than 2 per cent, the problem of affordable housing, especially for low- to moderate-income households, is compounded by the unwillingness of many landlords to rent to parents with children. Data obtained from the rental guide and the classified ads for the period of May through August 1983 showed that of 524 listings in the rental guide, 248 allowed children and 276 had restrictions regarding children; of 314 listings in the classified ads, 153 allowed children, 114 had restrictions regarding children, and the remaining 47 had no pertinent information on this issue. This dilemma is amplified by the upward trend in the number of families headed by single parents, particularly single mothers who account for 13.2 per cent of Hawaii's families according to the 1980 census, who must rely on one income for all living expenses. Discriminatory practices severely restrict housing opportunities available to renter households, especially those in low- and moderate-income groups, and further compounds the housing problem in the State.

Your Committee upon further consideration has amended the date by which restrictions based on parental status specified in covenants, bylaws, or administrative provisions, or established under organizational documents and proprietary leases for housing cooperatives must be in existence. The September 1, 1984 date may have allowed condominiums and cooperatives which have no restrictions on children to amend their documents to discriminate against families with minor children. Your Committee has amended the date to April 19, 1984, the date of adjournment of the 1984 Legislature.

Your Committee also has made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 328, 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. 328, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 56-84 on S.B. No. 2184-84

The purpose of this bill is to clarify the rights of lessees holding geothermal mining leases issued by the State and the respective roles of the State and county governments in connection with the control of geothermal development within geothermal resource subzones.

Act 296, Session Laws of Hawaii 1983, established a process for the Department of Land and Natural Resources to designate geothermal resource subzones prior to geothermal development. This process is presently underway, but is

not expected to be completed for another nine months. This means a delay in development of geothermal resources for companies which have already drilled wells and may result in their withdrawal from geothermal development.

This bill specifically designates as geothermal resource subzones, any area of land within an agricultural district covered by a geothermal mining lease approved by the Board of Land and Natural Resources (BLNR), any part or all of which area is the subject of a special use permit issued by the county for geothermal development activities, on or before the effective date of this bill.

This bill further specifies that if geothermal development activities are proposed within an agricultural, urban or rural district, but such development is not a permitted use under the applicable county general plan and zoning ordinances, the appropriate county authority is required to conduct a public hearing and, upon appropriate request, a contested case hearing pursuant to chapter 91, Hawaii Revised Statutes, to determine if the granting of a geothermal resource permit would not result in unreasonable adverse effects or burdens.

This bill further provides that if geothermal activities are proposed within a conservation district, the BLNR is required to conduct a public hearing and upon an appropriate request, a contested case hearing pursuant to Chapter 91, Hawaii Revised Statutes, to determine whether a conservation district use permit shall be granted to authorize geothermal development activities applied for.

Your Committee amended the bill by inserting language in section 205-5.1, Hawaii Revised Statutes, to specify that if geothermal development activities are permitted in agricultural, rural or urban districts under the county general plan and zoning ordinance, the appropriate county authority shall conduct a public hearing and upon an appropriate request, a contested case hearing, pursuant to Chapter 91, Hawaii Revised Statutes, to determine if specific requests for approval of geothermal development activities would not result in unreasonable adverse effects or burdens.

Your Committee finds that the development and use of Hawaii's geothermal energy resources is of critical importance to the energy security of this State, and important to its economic future. Geothermal energy represents a realistic option in the near future for a major source of baseload power, locally produced in an environmentally acceptable manner. Significant progress has been made by the three developers in the State who have committed considerable financial resources to their efforts, and who have demonstrated their concern for conducting their activities in a responsible way.

Your Committee further amended the bill by making technical changes to conform to recommended drafting format and which have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2184-84, 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. 2184-84, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Say, Okamura, Andrews, Apo, Kawakami, Matsuura and
Dang
Managers on the part of the House

Conf. Com. Rep. No. 57-84 on S.B. No. 2249-84

The purpose of this bill is to allocate the principal amount of the bonds which may be issued under the federal Mortgage Subsidy Bond Tax Act of 1980, or as the act may be amended, to the Hawaii Housing Authority (HHA). HHA shall have the authority to allocate to the counties, at their request, a certain percentage of the bond allocation provided that the counties shall use the allocation for specific new construction projects. The bill further provides that any bond allocation may be reassigned to HHA by the counties.

Although federal law has halted the issuance of mortgage subsidy bonds as of December 31, 1983, it is probable that the United States Congress will extend the Mortgage Subsidy Bond Tax Act of 1980 or enact similar legislation in 1984.

It would be advantageous for Hawaii to have legislation in place which would allow the HHA and the counties to proceed immediately with mortgage bond programs that would assist Hawaii's homebuyers.

Your Committee upon further consideration has made the following amendments to S.B. No. 2249-84, S.D. 2, H.D. 2:

(1) Rather than assigning the entire bond allocation to the Hawaii housing authority with subsequent assignment to a county upon its request in an amount not to exceed specific percentages of the total allocation, the allocation of revenue bonds shall be as follows:

State of Hawaii (Hawaii Housing Authority)	50%
City and County of Honolulu	29%
County of Hawaii	10%
County of Kauai	4%
County of Maui	7%

(2) The requirement that the counties utilize their allocations for specific new construction projects has been amended to require the use of county allocations for new construction projects generally. Your Committee wishes to emphasize that this requirement for county allocations is to prevent the counties from duplicating the State's efforts under the Hula Mae program, and that this requirement does not apply to bonds issued by the Hawaii housing authority.

(3) The bill now states that the allocation formula will apply under any act with a similar purpose enacted by the U.S. Congress.

(4) A provision has been added to allow the HHA to request additional bond allocations from the counties or to assign to the counties all or part of the authority's allocation in addition to any other allocations assigned to the authority.

(5) The allocation provisions shall be placed within the Hawaii Revised Statutes rather than the Session Laws.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2249-84, 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. 2249-84, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Hirono, Kawakami, Apo, Bunda, Leong, Tam and Anderson
Managers on the part of the House

Representative Bunda did not sign the report.

Conf. Com. Rep. No. 58-84 on S.B. No. 761

The purpose of this bill is to reschedule methaqualone, commonly referred to as quaaludes, from a Schedule II to a Schedule I controlled substance, under section 329-14, Hawaii Revised Statutes.

Your Committee finds that there has been widespread abuse of methaqualone which has resulted in numerous deaths and overdose cases throughout the country. As a result, several states have enacted legislation to reschedule methaqualone to Schedule I in order to provide more stringent penalties against its illegal distribution and consumption.

Your Committee has amended the bill by correcting a technical error which resulted in the bill being designated as S.B. No. 761, S.D. 1, H.D. 1, as received by your Committee, when in fact there is no S.D. 1 version, and by adding quotes at the beginning of Section 2 of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 761, 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. 761, H.D. 1, C.D. 1.

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

Representatives Chun, Stanley, Apo, Tom and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 59-84 on S.B. No. 934

The purpose of this bill is to establish statutory guidelines for the handling and retention of medical records.

Your Committee finds that current laws are silent on the question of how long medical records must be retained and the manner in which such records are to be handled. This issue concerns health care providers who currently retain voluminous amounts of patient records for fear that destroying them may result in liability for malpractice, recognizing that a person's medical history can play an important part in diagnosing and treating present ailments.

This bill addresses the problem by: 1) requiring the retention of medical records for a period of seven years after the last data entry, except for minors; 2) specifying that records may be computerized or photographically reduced to facilitate storage; 3) allowing the destruction of records after the seven-year retention period or minification as long as basic information is retained; and 4) providing for cases where a health care provider is succeeded by another or ceases activity.

Upon further consideration your Committee has amended the bill as follows:

(1) Page 2, line 15 of H.D. 1: deleted the word "unalterable" and inserted the word "unaltered". Your Committee acknowledges that no record is unalterable, and that the intent of this provision is that a medical record must be computerized or minified in its exact, original form without alteration.

(2) Page 2, line 21 of H.D. 1: added the word "the" after the word "after".

(3) Page 3, line 12 of H.D. 1: deleted the word "reports" and inserted the word "results".

(4) Page 3, lines 16-20 of H.D. 1: deleted the requirement that when a health care provider ceases activity without a successor, the medical records be mailed to patients at their last known address and substituted therefor a provision requiring the Department of Health to adopt rules for the disposal of records in such situations.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 934, 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. 934, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 60-84 on H.B. No. 2075-84

The purpose of this bill is to provide an administrative procedure by which the public may appeal a determination to the Environmental Council that an Environmental Impact Statement (EIS) is or is not required without filing suit.

Your Committee upon further consideration has amended H.B. 2075-84, H.D. 1, S.D. 1, to clearly define the Environmental Council's decision of an appeal of whether an EIS is or is not required. Wording has been reinserted which clarifies the fact that the Environmental Council's decision is binding, while

confirming the judicial appeals process under Section 342-7. The following amendment has been inserted in Section 2, page 2, line 7, and page 4, line 11 of H.B. 2075-84, H.D. 1, S.D. 1:

The person or agency appealing the determination and the agency which prepared the assessment shall abide by the council's decision subject to judicial appeal under Section 342-7.

Your Committee on Conference is in accord with the intent and purpose of H.B. 2075-84, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 2075-84, H.D. 1, S.D. 1, C.D. 1.

Senators Machida, Fernandes Salling and George
Managers on the part of the Senate

Representatives Okamura, Stanley, Hee, Kiyabu-Saballa, Matsuura, Menor
and Isbell
Managers on the part of the House

Representative Hee did not sign the report.

Conf. Com. Rep. No. 61-84 on H.B. No. 2169-84

The purpose of this bill is to authorize the Governor of the State of Hawaii to request, pursuant to section 103(e) of the Internal Revenue Code, that the Hawaii Educational Loan Marketing Corporation (HELMAC) be organized and operated as a private not-for-profit corporation to be affiliated with the United Student Aid Funds, Inc., for the exclusive purpose of acquiring educational loan notes incurred under the federal Higher Education Act of 1965 to provide a secondary market for investments in such student loans.

Your Committee finds that currently, rising post-secondary educational costs make obtaining a post-secondary education financially difficult for students. It is important that students be provided continuing access to adequate sources of low-interest loans under the guaranteed loan programs of the Higher Education Act of 1965.

Your Committee further finds there is an immediate need to provide liquidity for lending institutions offering student loans in Hawaii. At the moment, many Hawaii lending institutions find illiquidity a problem because of the unique nature of student loans. This bill would alleviate the problem by allowing a private not-for-profit corporation to issue tax exempt obligations and to use the proceeds of the sale of such obligations to purchase student loan contracts from lending institutions, thus releasing more money for students.

Your Committee believes that the establishment of a local private not-for-profit corporation, organized and operated for the exclusive purpose of acquiring educational loan notes, is in the public interest and would serve to benefit both students and the lending community.

Your Committee, upon further consideration, has amended the bill by substituting the phrase "is hereby authorized to" in place of the word "may" on page 3, line 19.

Your Committee agrees that before HELMAC is allowed to issue tax exempt obligations in an amount not to exceed \$20,000,000 at any time, the issuance of that debt by HELMAC is also subject to the approval of the legislature and to the approval of the governor and to the director of finance not more than 60 days prior to the sale of that debt.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2169-84, 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. 2169-84, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Hagino, Kawakami, Apo, Menor, Morgado, Wong and Dang
Managers on the part of the House

Conf. Com. Rep. No. 62-84 on H.B. No. 1946-84

The purpose of this bill is to appropriate \$175,000 or so much thereof as may be necessary for fiscal year 1984-1985 for personal care services for persons eligible for medical assistance.

Your Committee finds that the provision of in-home services such as personal care services enables disabled and elderly persons to maintain relatively independent lifestyles and retain their dignity while at the same time avoiding unnecessary and costly institutionalization, usually at public expense.

Your Committee has amended this bill by settling the amount of the appropriation at \$500,000. Of this amount, your Committee has further specified that \$475,000 is to be expended by the Department of Social Services to serve persons eligible for medical assistance, while \$25,000 is to be expended by the Executive Office on Aging to serve persons not eligible for medical assistance. In this way, your Committee intends that as many of these persons requiring personal care services be served as possible within the limits of the appropriation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1946-84, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1946-84, S.D. 2, C.D. 1.

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

Senator A. Kobayashi did not sign the report.

Representatives Ige, Kiyabu, Apo, Chun, Leong, Morgado and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 63-84 on H.B. No. 2257-84

The purposes of this bill are to permit the Department of Health to provide secondary prevention programs in child abuse and neglect, and to serve as the lead agency for programs which provide for a coordinated range of child abuse and neglect prevention services.

In recognition of the importance of the prevention services, this bill requires the Department of Health to serve as the lead agency for programs which provide for a coordinated range of child abuse and neglect prevention services, which are intended to include both primary and secondary prevention programs. The Department's prevention programs are to be coordinated with available treatment services to minimize duplication and promote efficiency and effectiveness.

The bill also establishes an advisory committee to provide advice to the Department of Health on the implementation of the secondary prevention programs.

Upon further deliberation on the points of disagreement between the House and the Senate, your Committee has made the following amendments to this bill:

- (1) On page 4, lines 12 and 13, the words "social services" have been deleted to remove an unintended restriction of representatives of health agencies from the membership of the proposed committee.
- (2) On page 4, line 19, the word "commission" has been corrected to "committee" to correct a typographical error.
- (3) On page 5, line 19, the new role of the Department of Health has been amended to specify that it shall ". . . serve as the coordinating agency for programs which provide for a range of child abuse and neglect prevention services . . ." This provides greater clarity as to the Department's intended role, rather than designating it as the "lead" agency as originally provided.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2257-84, 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. 2257-84, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Ige, Chun, Kiyabu, Hirono, Morgado and Jones
Managers on the part of the House

Representative Jones did not sign the report.

Conf. Com. Rep. No. 64-84 on S.B. No. 1693-84

The purpose of this bill is to provide consumer safety by regulating the rebuilding and restoration of wrecked motor vehicles.

Specifically, this bill would: 1) authorize issuance of a salvage certificate upon certain conditions; 2) require that a bond be posted before work may be done on a salvage vehicle; 3) define a "rebuilt vehicle"; 4) require a vehicle that has been determined by an insurer to be unsafe or been rebuilt or restored be certified before it may be operated; 5) require that the application for registration for a rebuilt motor vehicle state that the vehicle is rebuilt; 6) require that the purchaser of a salvage vehicle or the insurance company, in cases where a salvage vehicle is conveyed to an insurance company, forward to the Director of Finance an application for a salvage certificate in addition to proof of ownership, the certificate of ownership, and the license plates and to require the Director to issue the salvage certificate upon receipt of these items; 7) require that upon resale of a salvage vehicle, the seller give, in addition to the bill of sale, a salvage certificate to the purchaser, and mandate that a party selling a salvage vehicle sell only to certain licensed persons; 8) prohibit the issuance of a license to any salvage vehicle rebuilt to operate on the highway, unless there is issued a salvage certificate and an inspection certificate signed by a registered or certified motor vehicle repair dealer attesting that the vehicle's original specifications and tolerances have been adhered to; 9) allowing the counties to set fees to be charged for inspecting rebuilt motor vehicles; 10) include a new item (11) to Section 437B-11, stating that rebuilding or restoring a salvaged vehicle so that it does not conform to the original specifications shall be cause for disciplinary action against licensees; 11) deleting the requirement in Section 289-2 that persons obtain a license under Chapter 289 in order to engage in the business of rebuilding wrecked vehicles for resale; 12) amending the definition of "repair of motor vehicles" in Chapter 437B to include the rebuilding and restoring of salvaged vehicles and thus shifting the licensing of rebuilders to the Motor Vehicle Repair Industry Board.

Your Committee upon further consideration has made the following amendments to S.B. No. 1693-84, S.D. 1, H.D. 1:

1) Page 2, line 8. "Person" is deleted and replaced with "motor vehicle repair dealer."

2) Page 2, line 13. The bond has been increased from less than \$25,000 to not less than \$25,000.

3) Page 3, line 7. "Rebuilt Motor Vehicle" has been redefined for purposes of clarification.

4) Page 10, line 7. Persons licensed under Chapter 437B was added to those authorized to buy a salvaged vehicle and any other person is allowed to buy a salvaged vehicle provided the person execute an affidavit relating to the intended use of the salvaged vehicle.

5) Page 10, line 24. The words "repair procedures or" was added after the word "established" to allow licensing of rebuilt motor vehicles if the manufacturer's established repair procedures were adhered to.

(6) Page 13, lines 14, 15, 17. The proposed new language was reworded for clarity and to conform with the amendment discussed in item (5) above.

(7) Page 14, lines 13, 14. The words "salvage, wrecked, or dismantled

vehicle" was replaced by "rebuilt vehicles as defined in Section 286-2".

(8) A new Section 11 was added to allow the Director of Commerce and Consumer Affairs to utilize the special fund established by Section 26-9(m), Hawaii Revised Statutes, to implement the sections of this bill relating to Chapter 437B.

(9) Section 11 and 12 were renumbered 12 and 13 respectively.

(10) Section 13 was renumbered Section 14 and the effective date of the bill was changed from July 1, 1985 to January 1, 1985.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1693-84, 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. 1693-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 65-84 on S.B. No. 1694-84

The purpose of this bill was to amend the Uniform Securities Act (modified) to require the registration of investment advisers.

Presently, Hawaii law does not require investment advisers to disclose information which would be subject to review before granting them the right to conduct their business in Hawaii or to submit periodic reports of their business transactions. Consequently, there are no means to prevent persons with criminal records, bad business repute, or financial instability from operating in this State.

Although investment advisers are presently required to register with the Security and Exchange Commission (SEC), to disclose certain information, and to keep complete business records for a period of five years, a memorandum received from the Legislative Reference Bureau indicated that the SEC has such a large pool of people to police that it cannot possibly conduct sufficient examinations and audits to the satisfaction of the different states. The memorandum further indicated that the SEC's limited investigative resources may be the reason that thirty-six states have statutory provisions requiring the registration of investment advisers. The courts have ruled that the federal government has not preempted the states in this area and that a state may regulate the qualifications and activities of investment advisers pursuant to the state's police powers to regulate occupations affecting the welfare and property of the citizens of the State.

In view of recent events involving investment adviser misconduct, your Committee is in agreement that it is necessary to enact legislation that would deter future misconduct by requiring the registration of investment advisers in this State.

Your Committee is aware of the Department of Commerce and Consumer Affairs' concerns that such requirements may necessitate additional personnel to handle investment adviser registrations and notes that this bill includes a built-in "trigger mechanism" whereby the commissioner of securities would conduct a thorough investigation of applicants or registrants upon the finding of substantive errors in a registration statement or the filing of complaints. Your Committee further notes that this bill includes a provision that would authorize the commissioner to coordinate efforts with the SEC and any similar entities to avoid unnecessary duplication of examination and investigations.

Your Committee upon further consideration has made the following amendments:

- (1) Provide that a person who was registered as an investment adviser by the SEC as of January 1, 1983 shall be exempt from the examination provisions in subsection 485-1(d), Hawaii Revised Statutes.

- (2) Require that applications for registration of investment advisers be accompanied by a form disclosure statement which, for certain transactions, informs the client of the capacity in which the investment adviser is acting and the compensation the investment adviser is to receive.
- (3) Provide that the bond requirement shall be \$5,000 if the investment adviser does not have custody of or discretionary authority over client money, securities, or other assets.
- (4) Delete the requirement that the errors and omissions insurance be for \$5,000,000 and provide that the insurance shall be for at least \$100,000 per occurrence with a \$200,000 aggregate for those with less than two years experience, and a \$500,000 aggregate for those with two or more years of experience for the protection of the investment adviser's clients.
- (5) Delete the \$10,000 minimum capital requirement for investment advisers and add that the commissioner may by rule require a net worth requirement which shall not be less than \$5,000 for investment advisers.
- (6) Delete the language in the proposed new paragraph 485-25(c)(4), Hawaii Revised Statutes and substitute language to provide that an investment advisory contract shall provide that an investment adviser must (a) make written disclosure to a client regarding the capacity in which he is acting and compensation to be received for certain transactions, and (b) obtain written consent of the client to such transactions.
- (7) Provide that a variable annuity contract based upon a separate account which is registered as a management investment company with the SEC is exempt from section 485-8 and paragraph 485-25(a)(7), Hawaii Revised Statutes.
- (8) Provide that "security" does not include a fixed annuity contract.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1694-84, 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. 1694-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 66-84 on S.B. No. 1702-84

The purpose of this bill is to require all insurers to issue for each insured motor vehicle a no-fault decal showing the existence of a current no-fault policy.

Your Committee finds that the increasing number of uninsured motorists poses a threat to society. Hawaii has compulsory insurance requirements and requires that motorists carry a no-fault card. Insurance identification cards serve as evidence that a motorist has obtained no-fault insurance and is complying with the insurance coverage requirement. Your Committee finds that it is possible, however, for a motorist to retain a card after the motorist's insurance policy is canceled, and continue to operate a vehicle without insurance.

Currently, the only enforcement mechanism against uninsured motorists is to criminally prosecute those who fraudulently use or display no-fault identification cards knowing that their policy has been canceled. Depending on the amount of the fine imposed, violators may choose to pay a lesser fine for the fraudulent use of the card than to pay the no-fault premiums.

Upon consideration of this measure, your Committee has decided to delete entirely all provisions which would require the issuance and display of no-fault insurance decals. In place of such provisions, the bill, as amended, establishes procedures for return of no-fault insurance cards upon cancellation of policies and requires first time purchasers of no-fault insurance to prepay

premiums.

Under the bill, as amended, prepaid premiums need not be refunded upon cancellation of a policy until the no-fault insurance card is returned to the insurer and if premiums are due for any part of the period for which the card was issued, the insurer may bring a court action against the person cancelling the policy for three times the unpaid portion of the premiums. These provisions are designed to act as a financial disincentive to persons who might otherwise obtain and cancel no-fault insurance policies to obtain the use of the no-fault insurance card for periods when the policy has been cancelled.

In order to further restrict the fraudulent use of no-fault insurance cards, the bill also requires persons who are applying for the first time for no-fault insurance to prepay for at least six months coverage; however, the insurer is allowed to accept payment of two months prepaid premium and issue a temporary no-fault identification card for the period for which premiums have been paid. It is the intent of your Committee that this provision is not intended to affect those persons who are existing policyholders who desire to obtain another insurance carrier. Further, because of the unique nature of commercially rated and fleet vehicles, vehicles used in those capacities are excluded from the coverage of this provision.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1702-84, 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. 1702-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 67-84 on S.B. No. 1745-84

The purpose of this bill was to extend the existence of the Board of Acupuncture (Board) until December 31, 1985.

Your Committee has learned from the Legislative Auditor's Sunset Report on Acupuncture that the Attorney General's Office rendered an opinion on December 1982 that acupuncturists were not entitled to call themselves "Doctors" or "acupuncture physicians". Subsequently, the Board's lack of response to this opinion resulted in the sending of warning letters to acupuncturists who were violating the Board's rule on advertising. Among those receiving a warning letter from the Executive Secretary were three members of the Board. Although all the violators have since complied with this rule, your Committee finds that the Board did not react promptly to the Attorney General's opinion and that Board members were violating a rule that they were supposed to enforce.

Your Committee further finds that the Board has failed to establish educational guidelines in their licensing process by allowing foreign applicants to take the Board's exam indiscriminately without first establishing a complete list of foreign schools whose graduates are acceptable candidates for licensing.

After considering the Legislative Auditors Report and the other factors in this issue, your Committee has made the following amendments to S.B. No. 1745-84, S.D. 1, H.D. 1:

- (1) The administration of Chapter 436D, Hawaii Revised Statutes, has been transferred to the Board of Medical Examiners and the Board of Acupuncture has been deleted.
- (2) A new section has been added to chapter 436D providing that the Board of Medical Examiners shall adopt rules in accordance with chapter 91 for the administration of the chapter.
- (3) Another new section has been added to chapter 436D providing that the Board may delegate its duties, except for rulemaking and revocation or suspension of licenses, to a committee comprised of at least three licensed acupuncturists and as many lay members as the Board deems

appropriate.

- (4) Chapter 436D has been extended until December 31, 1986.
- (5) The effective date of the Act has been changed to January 1, 1985, except that section 11, which extends the existence of chapter 436D, is made effective upon approval.

The effect of the amendments is to repeal the Board of Acupuncture as of January 1, 1985, and transfer administration of the regulation of the practice of acupuncture to the Board of Medical Examiners as of that date.

Your Committee believes that these changes will resolve the past difficulties involving the regulation of acupuncture practitioners and that there is sufficient potential harm to the public health, safety and welfare from improperly applied acupuncture procedures to warrant the extension of Chapter 436D, Hawaii Revised Statutes, as amended by this bill, for an additional two years.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1745-84, 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. 1745-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 68-84 on S.B. No. 1815-84

The purpose of this bill is to establish procedures for voluntary arbitration of internal disputes involving apartment owners, associations of apartment owners, boards of directors, and managing agents which relate to Chapter 514A, Hawaii Revised Statutes, or the association's bylaws, declaration or house rules.

Upon further consideration, your Committee has agreed that mandatory arbitration, when afforded the protections of due process and trial de novo, is constitutional and can further expedite the disposition of disputes relating to Chapter 514A, Hawaii Revised Statutes. Your Committee has therefore amended S.B. No. 1815-84, S.D. 1, H.D. 1, by:

1. Amending Section 1 to clarify that arbitration of internal disputes between apartment owners, associations of apartment owners, boards of directors and managing agents shall be mandatory upon the request of any party.
2. Deleting, in Section 2, subsection (a) of section 514A- , entitled Arbitration of disputes, and substituting a new subsection (a) which provides that arbitration of disputes relating to Chapter 514A, Hawaii Revised Statutes, or the association's declaration, bylaws or house rules shall be mandatory upon the request of any party.
3. Adding a new paragraph (8) to subsection (b) of section 514A- , entitled Arbitration of disputes, to exclude from mandatory arbitration those cases which are "unsuitable for disposition by arbitration".
4. Adding, in Section 2, a new section 514A- , entitled Determination of unsuitability, which provides procedures by which a person served with a written demand for arbitration may apply to an appropriate circuit court for a determination as to whether the subject matter of the dispute is suitable for arbitration. The new section also provides general criteria as to what disputes are suitable for disposition by arbitration.
5. Adding, in Section 2, a new section 514A- , entitled Determination of insurance coverage, which provides that where a dispute is excluded from arbitration under section 514A- b(7), any party to the arbitration may file a complaint for declaratory relief against the involved insurers for a determination of whether insurance coverage is unavailable due to pursuit of the arbitration.

6. Amending, in Section 2, section 514A- , entitled Award; confirming award, to clarify that an arbitration award shall not be confirmed by a circuit court where a de novo jury trial has been demanded.
7. Deleting, in Section 2, section 514A- , entitled Appeal of award, and substituting a new section 514A- , entitled Trial de novo and appeal. This new section provides that (1) any party involved in an arbitration may demand a trial de novo within ten days after service of the arbitration award upon all parties; (2) the demanding party shall be liable for all costs, expenses and attorney's fees if the demanding party does not prevail at the trial de novo; and (3) when there is more than one party or issue involved in the trial de novo, the court shall allocate its award of attorneys' fees among the prevailing parties and tax such fees against the nonprevailing parties who demanded a trial de novo in accordance with the principles of equity.
8. Including other nonsubstantive language and technical changes which were made for purposes of clarity and conformity with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1815-84, 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. 1815-84, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Carpenter, Uwayne and Henderson
Managers on the part of the Senate

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

Conf. Com. Rep. No. 69-84 on S.B. No. 1867-84

The purpose of this bill was to amend the Horizontal Property Regimes Act.

Specifically, the bill provides for separate metering of utilities; deletes the requirement that at least one-third of the directors' terms expire annually; clarifies that no director may vote at any board meeting on any issue on which the director has a conflict of interest; establishes procedures for the use of proxies at association meetings; clarifies the requirements for improvements to condominium projects; relieves condominium associations of the responsibility for certain arrearages on apartments voluntarily transferred to new owners; and amends the caption and text of Section 514A-92.2, Hawaii Revised Statutes, to clarify its intended purpose.

Your Committee upon further consideration amended the bill on page 2, lines 17 and 18, of the Conference Draft, to substitute the phrase "two business days" for the phrase "one business day". The effect of the change is to require proxies for association meetings to be delivered to the secretary of the association of apartment owners at least two business days, rather than one business day, prior to the meeting.

Your Committee further amended the bill by deleting entirely Section 2, which proposed to amend Section 514A-82, Hawaii Revised Statutes, and appropriately renumbering the other sections of the bill. The proposed changes to the law which have thereby been deleted from this bill would (1) repeal the requirement that the terms of at least one-third of the directors of a condominium's owners association expire annually; (2) add a provision specifying that the initial term of directors shall be for three years unless otherwise specified in bylaws; (3) prohibit a director from voting at board meetings on issues which the director has a conflict of interest; and (4) restrict solicitation and use of proxies by resident managers and directors. The amendment was made because S.B. No. 2085-84, S.D. 1, H.D. 1 also proposes to amend Section 514A-82 and the provisions described above have been added to the Conference Draft version of that bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1867-84, 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. 1867-84, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Fernandes Salling and Henderson
Managers on the part of the Senate

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

Conf. Com. Rep. No. 70-84 on S.B. No. 2056-84

The purpose of this bill was to expand the exemption provisions of Chapter 462A, Pilotage, Hawaii Revised Statutes, to include fishing vessels licensed or enrolled under the laws of the United States of America.

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

1. On page 1, line 5, the phrase "licensed or enrolled under" was deleted and replaced with the words, "required by".
2. On page 1, lines 6 and 7, the phrase "engaged in trade between ports of the United States of America;" was deleted and replaced with new language to read, "to be under the direction and control of a federally licensed pilot".
3. On page 1, lines 12 and 13, the new paragraph (4) is amended to read: "Fishing vessels that have been issued a fishery license or appropriately endorsed registry under the laws of the United States of America", to clarify the bill's intended purpose.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2056-84, 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. 2056-84, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 71-84 on S.B. No. 2085-84

The purpose of this bill was to clarify the relationship between common elements as specified under section 514A-3(5), Hawaii Revised Statutes, and the voting rights of apartment owners in a horizontal property regime.

The present law provides that a condominium project's declaration may designate an area that would otherwise be a common element as an apartment. This permits designation of such areas as trash chutes and storage rooms as apartments and allows the owner of such areas to vote at association meetings. Your Committee finds this practice to be deceitful and duplicitous and contrary to the intent and purposes of the law on horizontal property regimes.

The bill remedies this problem by prohibiting owners of areas that would otherwise be common elements to vote at association meetings.

Besides clarifying the relationship between common elements and voting rights, the bill also:

1. Prohibits remuneration by apartment owners for access to their condominium apartments;
2. Requires developers to provide mailboxes to apartment owners of apartments built, substantially renovated, or converted to a condominium after the effective date of this bill;

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

1. Requiring boards of directors of condominiums with more than one hundred units to consist of nine members, unless the number is reduced by a vote of at least seventy-five per cent of the owners at an annual or special meeting called for that purpose.

2. Providing that for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed.

3. Clarifying that a director shall not vote at any board meeting on any issue in which the director has a conflict of interest.

4. Providing a new section 514-82(18), Hawaii Revised Statutes, relating to the solicitation or casting of proxies by resident managers, managing agents, or members of a board of directors.

5. Amending the new section 514A-82(19), Hawaii Revised Statutes, to substitute "Robert's" for "Roberts" when referring to Rules of Order.

6. Adding the word "use" after the word "residential" on page 9, line 4 of the bill as received for the purpose of clarity.

7. Including nonsubstantive amendments for purposes of clarity and conformity with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2085-84, 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. 2085-84, S.D. 1, H.D., C.D. 1.

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

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

Conf. Com. Rep. No. 72-84 on S.B. No. 1744-84

The purpose of this bill was to extend the existence of the Board of Medical Examiners to December 31, 1990, and to amend the current three-year residency training requirement for foreign medical graduates to two years.

Your Committee concurs with the existing provisions of S.B. No. 1744-84, S.D. 1, H.D. 1, and has made no amendments thereto. However, your Committee has amended S.B. No. 1744, S.D. 1, H.D. 1, to include additional amendments as follows:

(1) Amend Chapter 453, Hawaii Revised Statutes, to include a new section which (a) requires the certification of persons practicing medicine under the supervision of a physician, (b) sets forth the procedures for such certification; and (c) requires the Board of Medical Examiners to establish the degree of supervision required by supervising physicians of physician assistants.

(2) Amend Chapter 453, Hawaii Revised Statutes, to include a new section which sets forth the requirement and procedures by which the Department of Commerce and Consumer Affairs shall review complaints and information received under sections 92-17, 329-44, 453-8.7, 663-1.7, 671-5 and 671.15, Hawaii Revised Statutes. In addition, the amended bill amends sections 329-44, 453-8.7, 663-1.7, 671-5, and 671-15, Hawaii Revised Statutes, to require that, peer review committee adverse decisions, insurance reports on medical tort cases and convictions of physician for violations of medicine and surgery laws be transmitted to the Department of Commerce and Consumer Affairs.

(3) Amend Chapter 453, Hawaii Revised Statutes, to include two new sections which permit the temporary certification of emergency ambulance personnel and requires the Board of Medical Examiners to establish an emergency medical services committee to assist in the performance of the Board's duties with respect to emergency medical services.

(4) Amend Section 321-227, Hawaii Revised Statutes, to delete the requirement that the Department of Health provide for certification of emergency medical services personnel in the absence of certification under Chapter 453, Hawaii Revised Statutes.

(5) Amend Section 321-229, Hawaii Revised Statutes, to provide that the Department of Health's life support and advance life support training programs

shall be relevant to and consistent with the training course required for certification under Chapter 453, Hawaii Revised Statutes.

(6) Amend Section 453-2, Hawaii Revised Statutes, to (a) make reference to persons certified under part II of chapter 453, Hawaii Revised Statutes, instead of "physician-support personnel"; and (b) delete the provision that the Board of Medical Examiners shall promulgate rules regarding standards of medical education and training governing physician-support personnel and physician assistants.

(7) Amend Section 453-3, Hawaii Revised Statutes, to require the Board of Medical Examiners to establish guidelines to determine areas with an absence or shortage of physicians, where physicians with temporary licenses may practice.

(8) Amend Section 453-5, Hawaii Revised Statutes, to require the employment of an employee by the Department of Commerce and Consumer Affairs to administer the Medical Claims Conciliation Panel and to require that the Board of Medical Examiners hold its meeting in public places and shall comply with Chapter 92, Hawaii Revised Statutes.

(9) Amend Section 453-8.5, Hawaii Revised Statutes, to require that members of the Medical Advisory Committee serve as consultants to the Department of Commerce and Consumer Affairs for investigations.

(10) Amend Section 453-17, Hawaii Revised Statutes, by amending the procedure for subpoena of adverse decision reports by allowing for the subpoena of evidence other than patient records and by deleting the reference to the Board of Medical Examiners.

(11) Amend Section 453-31, Hawaii Revised Statutes, to require the Board of Medical Examiners to define the scope of the practice of emergency medical services, the different levels of practice and the degree of supervision required of a supervising physician.

(12) Amend Section 453-32, Hawaii Revised Statutes, to establish a uniform method of certifying persons as qualified in emergency medical services by requiring the Board of Medical Examiners to use the certification standards of the National Registry of Emergency Medical Technicians.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1744-84, 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. 1744-84, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Shito, Kawakami, Andrews, Honda, Graulty, Wong and
Isbell
Managers on the part of the House

Representative Graulty did not sign the report.

Conf. Com. Rep. No. 73-84 on H.B. No. 1940-84

The purpose of this bill is to increase the amount of funds deposited annually into the University of Hawaii research and training revolving fund and to provide additional advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects.

The current limit on funds deposited into the research and training revolving fund is \$1,000,000. This bill establishes the limit at 30% of all income generated from overhead receipts, with the remainder to be deposited into the state general fund. Translated into dollars, this new limit will provide approximately \$2,000,000 annually to the University for support of various research and training activities, allowing the University to remain competitive with other institutions in attracting research funds.

This bill also creates a permanent new account of \$2,500,000 to be used to provide advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects. Because of the federal

reimbursable cost system, the University is extremely limited in retaining working capital necessary to attract and receive federal dollars in support of research and training projects. The proposed bill increases the University's ability to attract research dollars.

Your Committee upon further consideration has made the following amendments to H.B. No. 1940-84, H.D. 2, S.D. 1:

- (1) Added proposed language to Section 304-8.1(a), Hawaii Revised Statutes, which provides that, except for amounts specified in Section 304-8.1(c), unencumbered funds as of June 30 of each fiscal year are to be deposited to the general fund of the State.
- (2) Deleted language in Section 304-8.1(b) requiring that the University annual report on the status of the research and training revolving fund include details of indirect and overhead receipts, expenditures, advances and reimbursements.

In agreeing with the amendments, your Committee on Conference wishes to express a strong concern that the amendment which provides for the lapsing of unencumbered funds, may result in potential difficulties for University researchers. More specifically, certain research and training revolving funds which are committed towards extramural grant proposals may be lapsed due to late notification of grant awards. In addition, your Committee is also concerned that regular teaching faculty who can only conduct research activities during the summer months, may not have enough time to expend or fully encumber funds for their research projects by June 30.

It is the hope of your Committee that the University address this concern in its next annual report to the Legislature as provided for in Section 304-8.1(b), Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1940-84, 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. 1940-84, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Holt, Mizuguchi, Abercrombie and Ajifu
Managers on the part of the Senate

Senator Abercrombie did not sign the report.

Representatives Hagino, Kiyabu, Apo, Chun, Okamura, Yoshimura and Dang
Managers on the part of the House

Representative Yoshimura did not sign the report.

Conf. Com. Rep. No. 74-84 on H.B. No. 2044-84

The purpose of this bill is to exempt the Public Employees' Health Fund from the requirements of Chapter 431A, Hawaii Revised Statutes.

The bill has amended the expiration date of the moratorium from December 1, 1984 to June 30, 1985. This amendment will permit the Legislature to review the final report of the worker's compensation study which is being conducted through the Legislative Auditor and which is scheduled to be submitted to the 1985 session. Such changes to the worker's compensation program as the Legislature may make in the 1985 session can then be taken into account in rate filings submitted to the Insurance Commission for approval subsequent to June 30, 1985.

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

- (1) Between the words "shall" and "file" on page 2, line 12, the following language has been added.:

" , on June 1, 1985, and on June 1 of each year thereafter, "

- (2) After the word "use" the following proposed language has been added:

"during the fiscal year starting July 1 of each year. No such filing shall be made at any time prior to June 1, 1985". This amendment has been made on page 2, lines 16 through 18.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2044-84, 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. 2044-84, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 75-84 on H.B. No. 2006-84

The purpose of this bill is to increase from \$3 to \$3.50 the amount of the fine levied against violators of those statutes relating to vehicles of their drivers or owners, as provided in section 286G-3 of the Hawaii Revised Statutes.

Under present law, a fine of \$3 is levied on each violation in addition to any fine imposed by the court. The amount is transmitted for deposit in the driver education and training fund.

Your Committee finds that the driver education and training program has grown substantially in the number of participants in recent years, especially in the referrals of drunk driving violations. It is currently operating at a slight deficit.

Your Committee upon further consideration finds that an increase of the fine to \$5 would generate a more adequate amount for the judiciary to cover the current and anticipated budget deficit of the driver education and training fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2006-84, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2006-84, S.D. 1, C.D. 1.

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

Representatives Stanley, Crozier, Andrews, Bunda, Lardizabal, Tam and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 76-84 on S.B. No. 1115

The purpose of this bill is to establish compulsory arbitration procedures for resolving disputes between a public employer and the exclusive bargaining representative of bargaining unit (12), police officers, over the terms of an initial or renewed collective bargaining agreement.

This bill extends the present provisions relating to compulsory arbitration to include police officers. Additionally, the present law is amended to allow the arbitration panel to fashion a decision that it deems appropriate and not be limited to selecting one or the other of the final offers of the parties as the basis for its decision. The bill also amends item number (6) of the factors to be considered by the arbitrators in reaching their decision by clarifying that wages of State and county employees employed in this State are to be utilized for comparison purposes.

Upon further consideration, your Committee has amended the bill to provide that with regard to firefighters and police officers, if more than ninety working days have elapsed after either party has given written notification to initiate negotiations and a dispute exists over the terms of an initial or renewed agreement either party may give written notice to the Hawaii Public Employment Relations Board that an impasse exists and thus trigger the compulsory arbitration process.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1115, 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. 1115, S.D. 2, H.D. 2, C.D. 1.

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

Senator A. Kobayashi did not sign the report.

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

Representatives Albano and Yoshimura did not sign the report.

Conf. Com. Rep. No. 77-84 on H.B. No. 1640-84

The purpose of this bill is to provide supplemental appropriations for the fiscal biennium 1983-85 and to make other amendments to the General Appropriations Act of 1983.

This bill, in its amended form, provides additional funds of \$4.7 million for operating purposes and \$39.5 million for capital improvement projects.

FINANCIAL AND BUDGETARY OVERVIEW

The overall financial considerations which have guided the formulation of this bill are similar to those which affected the general appropriations act and other appropriation measures that were enacted in 1983 for the current biennium. Our construction and major agricultural industries are still sluggish and economically troubled, and tourism, a mainstay of the Hawaiian economy, appears to have reached a plateau. The growth of general fund tax revenues remains low, and there is still uncertainty over final disposition of tax collections under litigation.

There is, however, signs that our economy will experience a modest upturn, and there is some room for cautious optimism with respect to State revenues and expenditures. The March 1984 6 per cent which was previously forecasted. This means an anticipated improvement of some \$13 million from the general fund tax revenue estimates shown for FY 1983-84 in the state administration's supplemental budget, which was submitted to the Legislature in December, and an increase of about \$12 million for FY 1984-85.

Additionally, your Committee adjusted the Council of Revenue's estimate of the growth in general fund tax revenues for fiscal year 1984-85 from 10.0 per cent to 8.7 per cent. The Council's estimate was predicated upon the expiration of the transfer of general excise taxes to the highway fund. Your Committee's estimate is based on passage of H.B. No. 2151-84 which continues the transfer. The use of a lower growth estimate for fiscal year 1984-85 will not alter the financial plan upon which this and other appropriation measures were based on because the lower growth estimate is offset by not having to show general fund expenditures for highway purposes.

On the expenditure side, the administration's expenditure controls are expected to continue to generate some savings. Just as important, several costly programs are not expected now to consume as much general fund resources as was previously feared. Slight improvements in the long-term tax exempt borrowing market have enabled the State to realize interest savings and lower its debt service costs for recent general obligation bond issues. The very large deficit previously anticipated by the state administration for the medical assistance program has not materialized, and it now appears that the program can be conducted under current appropriations. Also, general fund expenditures for the Department of Education's regular instruction program, the largest budget category in the entire state budget, are expected to be less than what was appropriated for FY 1984-85 because of a higher than anticipated increase in federal impact aid funds.

Thus, the slight improvement in revenues and the savings which are expected to be realized from some expenditures running below current appropriations have enabled selective, additional program appropriations to be made, some of

which are basically to continue the existing level of service.

In the aggregate, the level of appropriations recommended in this bill, as well as in other bills being considered by your Committee, when added to existing appropriations, falls within the latest revenue projections of the Council on Revenues and is near the expenditure level recommended in the Governor's financial plan. Thus, if the Governor finds at the outset of the next fiscal year and prior to each quarterly allotment period that the revenues anticipated will be equal to or exceed the estimates originally used by the executive, there will be little justification for any restriction of appropriations, and funds for legislative priorities should be fully allotted.

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 directions.

ECONOMIC DEVELOPMENT

Diversification of economic activity has provided a sound basis for Hawaii's development and allowed for our economy to hold firm against the worst effects of the economic recession. However, mindful of the fragile nature of an island economy, your Committee continued its commitment to diversified support and has provided funds for the major economic activities in the State: tourism and agriculture.

Tourism. Your Committee recognizes the significance of Waikiki to Hawaii's tourist industry and the need to support its continuing beautification as the major destination point in the State. Accordingly, \$4.8 million has been provided to continue the City and County of Honolulu's plans to widen and landscape sidewalk areas bordering Kalakaua Avenue.

To stimulate the development of new employment and economic opportunities, funds have been provided to promote Molokai as a visitor destination area. The funds provided to the Hawaii Visitors Bureau (HVB) for this purpose will be used on a 50 per cent matching basis with the county of Maui and private industry.

There has been substantial interest in developing Hawaii as a major convention center and as the insurance center of the Pacific. While both types of development appear to hold promise, your Committee believes that more analysis of these possible developments need to be conducted. Therefore, funds have been provided for the necessary studies to be conducted.

Agriculture. Agriculture continues to be a major area of concern. With the decline in sugar and pineapple production, your Committee has turned its attention to supporting viable agricultural enterprises. One of these enterprises which has shown promise and which is ready for implementation is the concept of the agricultural park. Your Committee has provided an authorization of \$4.175 million in general obligation bonds for the construction of these parks.

Despite the decline of canning operations, pineapple remains as one of the State's largest industries and a vital factor in Hawaii's economy. Your Committee has provided funds for the promotion of pineapple in Canada and the continental United States and has expanded the scope of the original promotion to include the Midwestern States.

To stimulate the development of new agricultural products and new technology for agriculture, funds have been provided to replenish the agricultural products revolving fund. The aim is to keep the revolving fund at a viable level so as to have funds available to encourage private investment in new agricultural ventures.

Your Committee, in recognizing that diversified agriculture is the fastest growing sector in Hawaii's agricultural industry and that great potential exists for increasing the export of such commodities through continued promotional efforts, has provided funds for promotion.

Your Committee recognizes the need for a comprehensive promotional effort to combat the public's lack of confidence in locally produced milk. Funds will be

provided on a matching basis to complement the existing product promotion and advertising campaign of the milk industry.

In addition to providing additional funds for agricultural development and promotion, funds have been included for research and equipment. Webworms are a threat to the cattle industry with the capacity of destroying acres of grazing lands in a matter of days. Therefore, funds are provided for research on the webworm biological control project. Nematodes also continue to be a significant problem and, in response, your Committee has provided funds for additional nematode detection equipment for the Statewide Nursery Certification Program.

Due to the nationwide ban on EDB, the local papaya industry is in danger of not being able to market its product. Therefore, funds have been provided for research and development of alternatives to EDB treatment of papaya.

High Technology Development Corporation. Your Committee recognizes the promise of high technology as a possible alternative in its continuing commitment to economic diversification. During the Regular Session of 1983, the Legislature passed Act 152 which established the High Technology Development Corporation (HTDC) for the purpose of developing industrial parks, locating high technology enterprises and assisting in the construction of facilities for such purposes through the issuance of special purpose revenue bonds.

To further demonstrate its support of high technology development, your Committee has provided funds to continue the program's activities.

EMPLOYMENT

Workers' Compensation Caseload. Your Committee has included in this bill funds to allow the director of labor to hire hearing officers to investigate claims, hear cases, and render decisions on claims whenever the need arises. Your Committee has been informed by the department of the backlog of cases existing in this area. Such a backlog of unresolved cases creates a hardship on the individual involved as well as adding to the State's cost in administering the program.

Hawaii State Occupational Information Coordinating Committee. Your Committee demonstrated its continuing support of youth seeking job opportunities through the funding of the Hawaii State Occupational Information Coordinating Committee. Last year the Legislature established a career information system for the purpose of providing support in employment, training, education, and career planning for youth facing career and occupational decisions. Your Committee believes that the work of the committee will do much to impact the matching of youth career desires with available and anticipated labor demand.

Employment Opportunities. Recognizing the slow recovery of the construction industry, your Committee has provided \$10 million in capital improvement projects for repair, renovation, and maintenance of school facilities. Your Committee believes these funds will serve as a catalyst to stimulate activity in the construction industry, thereby providing more jobs for our people.

TRANSPORTATION

Inter-State Route H-3. Your Committee has provided funding, at the level requested by the executive, for construction of H-3 from the H-1 junction to the Kaneohe Marine Corps Air Station. Your Committee believes that the project should now be allowed to proceed. Should a decision to cease the project be issued by the Federal Court in 1985, ruling against the State, the department of transportation is directed to present other alternatives that would attain the same objectives that H-3 is intended to accomplish.

Support for Other Facilities. Your Committee has also provided funding for several projects deemed to be of a high priority. Among these are: expansion of Kahului Airport; improvements to the Aloha Tower Complex; replacement of the fire boat at Honolulu Harbor; design of the Waiaka Stream Bridge in Waimea, Hawaii; improvements toward Lahaina along Honapilani Highway; and further Pali Highway improvement.

ENVIRONMENTAL PROTECTION

In recognition of the State's value as a potential source of geothermal power, Act 296, SLH 1983, directed the department of land and natural resources to designate subzones of geothermal resource development areas in the State. However, funds were not provided and preliminary work is currently being coordinated by existing departmental staff. Your Committee believes that this work is critical to the State's effort to further develop its energy self-sufficiency. Consequently, your Committee has appropriated funds to contract the services of a geologist in order to accomplish the necessary subzoning work.

Studies are also being conducted concerning the reuse of water for agricultural purposes, the development of rainwater catchment programs, solar distillation to vaporize pure water from low quality water, and aeration treatment of contaminated water. Further, your Committee supports a more stringent monitoring of all levels of harmful substances in the environment.

HEALTH

In its review, your Committee faced several issues that required budgetary decisions. These issues included the following: management of excess hospital receipts; consolidation of hospital services in the County of Hawaii; the need for additional support for programs dealing with the mentally retarded, drug and substance abuse, and child and sex abuse; the urgency of providing funds for equipment purchases for the new acute care facility in Hilo; and the expansion of emergency medical services to rural areas.

Management of Excess County/State Hospital Receipts. Your Committee was disturbed to learn that \$7.2 million owing to the general fund for excess receipts generated prior to July 1982 remain unpaid, and another \$5.5 million owing for excess receipts generated last fiscal year also remain unpaid.

In its inquiry into the current special fund balances, your Committee discovered substantial balances built up from prior years in the County/State Hospital Administration Program. In addition, your Committee also found balances generated in the last fiscal year in the accounts of the various hospitals. Your Committee believes that a substantial amount of the current balances are in excess of the program's requirements, including contingencies, and are not needed. Therefore, your Committee has required, through special provisions in this bill, that such special fund balances lapse to the general fund.

Further, your Committee recommends that the director of health institute procedures whereby all special funds of the county/state hospital system will be periodically reviewed to determine what amounts should be transferred to the general fund. Additionally, your Committee directs the department to take necessary steps to ensure that expenditures of the county/state hospital system are subject to the regular budgeting process.

Consolidation of Hospital Services in the County of Hawaii. Your Committee has reviewed the comprehensive analysis on the consolidation of hospital services in the County of Hawaii submitted by a special task force of the department of health. The recommendations of the task force included (1) the conversion of Kau, Kohala, and Honokaa hospitals to intermediate care facilities (ICF) and (2) the consolidation of acute in-patient services to Hilo and Kona hospitals.

While your Committee is in favor of strategies to maximize utilization of the hospitals in Hawaii County, it is acutely aware of the need to maintain public confidence in the availability and responsiveness of health care services. Therefore, your Committee has requested the department of health to develop an implementation plan and to determine the impact on affected communities for presentation to the 1985 Legislature which will ensure maintenance of service levels in terms of accessibility and responsiveness during and after the conversion of the Hawaii County hospital system.

Community Based Services for Mental Retardation and Mental Health. Your Committee's recognition of the need for community based services in mental retardation and mental health was expressed through the funding of services in the purchase of service program. This year your Committee expanded the

purchase of service program for the mentally retarded in recognition of the continuing need for transitional living and day activity services for individuals being released from institutions.

Your Committee has also provided approximately \$2.7 million in additional general fund appropriations for purchase of community based mental health, drug and substance abuse, child and sex abuse treatment services. Further, your Committee has provided funds for a temporary position to the department of health to coordinate development of child abuse and neglect programs. This is to ensure that development efforts will be professional, systematic, and comprehensive.

Equipment Purchases for Hilo Hospital. Your Committee recognized the urgent need to purchase equipment and furnishings for the new acute care facility in Hilo in the current fiscal year and has addressed the matter in a special appropriations bill for fiscal year 1983-84. Your Committee has authorized the sum of \$2.7 million for Hilo Hospital.

Emergency Medical Services. To ensure availability of emergency medical services in rural areas, your Committee has provided funds to expand emergency room services at the Waianae Coast Comprehensive Health Center to a 24-hour operation.

Your Committee has also provided funds to purchase an ambulance to service the Honokaa area of the Big Island. Further, your Committee has directed the department of health to contract emergency medical services for Honokaa hospital. By doing so, the residents of this area will be assured a complete range of quality medical care.

SOCIAL SERVICES

The social and economic well-being of the aged, disabled, and the disadvantaged individuals and families is an important part of the State's program. It is your Committee's view that necessary assistance must be assured and it believes that continuous effort must be directed to enable those citizens to gain economic and social independence.

Medical Assistance. Because of the spiralling cost of Medicare and Medicaid over the past few years, the federal government has decided to contain, as well as drastically reduce, the cost of health programs. It has developed a new method of payment known as TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) which essentially places a limit on medical services reimbursement levels. Under Medicaid, all institutional type providers would be significantly affected by the reduction of medical services payments.

In an attempt to avert such a crisis, the department of social services and housing has developed a new method of payment to institutional health providers which would maintain current levels of payment while holding down program costs. Consequently, no additional appropriation is necessary for reimbursements to health care service providers.

Nursing Home Without Walls. A new approach to nursing care for the chronically ill and aged was established by the Legislature during the 1983 Session. This program offers home nursing care as an alternative to institutionalized care and has thus far proven hopeful as a pilot project. To assure the continued exploration of this effort, your Committee has provided funding for the second year with the requirement that the department evaluate the program and submit a report before the convening of the 1985 Legislature.

Financial Assistance. The anticipated cost of the money payment programs--Aid to Families with Dependent Children; Aid to Aged, Blind and Disabled; Child Welfare Foster Care and General Assistance--for fiscal year 1984-85 is expected to be less than previously anticipated. This is due to the application of stricter eligibility requirements which have resulted in a lower projection of caseload. Consequently, your Committee adjusted the appropriation provided in the biennium budget to reflect the caseload decrease.

Cost Recovery--Third Party Liability. Welfare recipients who are injured in automobile accidents are covered initially under the medical assistance program. When the liability of the injury falls on insurance carriers (third party

liability), the recovery of the medical costs has not been altogether successful. As a result, the State has been left to bear in the cost of medical care incurred by welfare recipients injured in automobile accidents. To insure recovery of such costs, six temporary positions and funds have been made available for use by the department to recover the reimbursement of the medical costs from insurance carriers.

LOWER EDUCATION

Your Committee remains firmly committed to the goal of providing every student in Hawaii's public education system with those fundamental academic and social skills necessary to meet the demands of our increasingly complex society. In carrying out this commitment, your Committee has sought to strike a balance between basic education, which serves as the cornerstone of our educational system, and special program augmentation tailored to meet the needs of some of our students.

Basic Education. Classroom instruction is the most significant component of the public school system and your Committee has provided sufficient funds to insure quality instruction. Additionally, in the event that the Governor imposes cost-cutting measures on each state agency, the department of education is directed to restrict funds for administrative support programs before considering the reduction of expenditures for classroom instructions.

Compensatory Education. Support for those students experiencing problems within the school system has been provided through funding of the comprehensive school alienation program. Your Committee is aware of the proliferation of programs and activities in this area and is requesting the department of education to evaluate the programs for the purpose of integrating effective and efficient programs identified into a single, comprehensive alienation program. As a condition of future appropriations, your Committee has requested the department to submit a report of the evaluation and its plans to implement an integrated school alienation program.

School Program Augmentation. Your Committee has also augmented the basic education program by providing funds for district education specialists and district resource teachers, and by providing addition funds for Early Provisions for School Success (EPSS), the School Priority Fund, the Hawaii Educational Diffusion and Dissemination System (HEDDS), and computers. The funding for EPSS will assure the educational services of a support teacher at least once a week for all kindergarten classes throughout the State. Because of restrictions imposed on the department due to the financial constraints of the State, the department was forced to sacrifice moneys appropriated for the School Priority Fund. To insure the availability of funds for the purchase of educational supplies and equipment, your Committee has provided \$20 for every student in our elementary and secondary schools. Moreover, your Committee has provided adequate funds in conjunction with the utilization of 100 computers donated to the department.

Intermediate School Counselors. Your Committee recognizes the need for counselors for intermediate schools and accordingly, has provided funds for 14 intermediate school counselor positions. The level of support provided is an incremental approach to eventually meeting all of the needs for counselors.

Summer Program for Enhancement of Basic Education (SPEBE). Exposure to professional experience enhances academic learning. Therefore, your Committee has provided opportunities for public school students to participate in a summer enrichment program in which students work in applied areas of mathematics, science, or language arts. This program will be instituted in the summer of 1985 with the support of business, local colleges and universities, and other public institutions.

Summer School Tuition Waivers. Your Committee has provided additional funds for the summer school tuition waiver programs. This will enable more students who meet the eligibility standards to continue their education during the summer. This is consistent with our policy of assuring educational opportunities for all students.

Repair and Maintenance of School Facilities. Mindful of the need to accommodate population increases in certain residential areas and to ensure the health

and safety of our children in the schools, your Committee has appropriated \$10 million in bond authorizations for the purpose of school repair, renovation, and maintenance.

Fiscal Reporting of 1985-87 Biennium Budget. Finally, in carrying out its commitment to fiscal responsibility, your Committee directs the department of education to submit its 1985-87 biennium budget in a format that reveals the amount of general funds being requested for each of its PPB Level V programs. This reporting format will allow your Committee to scrutinize the department's budget in a systematic and consistent manner through identification of cost effectiveness levels.

HIGHER EDUCATION

Funding to maintain quality and opportunity of higher education programs has always been a major concern of your Committee. However, in light of the austere financial condition of the State, budgeting for the university must be viewed with a rigor that requires critical reduction of expenditures. Accordingly, your Committee made adjustments to the fiscal year 1984-85 appropriation for the purpose of limiting the continuous rise in higher education program costs, without jeopardizing the availability of higher education opportunities for the citizens of our State. Your Committee was also made aware of the need to fund student enrichment as well as urgent projects for high-technology, energy resource development, and water contamination research. In addition, funds have been provided for improvements of classrooms and facilities.

Program Reviews. Your Committee was faced with the difficulty of adequately evaluating the program expenditure and budget of the university as available information did not relate program results with funding. In times of fiscal austerity, program plans and funding based on priorities established from evaluation of existing programs are critical processes, since budgetary decisions to reduce or eliminate programs must be made. The university has not prepared its budget over the years to address program budgeting with program reviews and, that in the future, the university should prepare the budget requests based on the results of such reviews.

Student Enhancement Computer Program. The College of Engineering has been in dire need to provide quality education for competent engineers sought by "high-tech" industry. The lack of adequate computer equipment was highlighted as a significant shortcoming of the college by the Accreditation Board for Engineering and Technology. To enhance the computer utilization education of engineering students, your Committee provided the college funds to purchase the necessary hardware and hire qualified personnel to assist the students with the exposure and increased capability for computer applications. The emphasis on computer education has been also recognized at the community colleges. Funds were made available for the Electronics Training Industry Program to determine the training needs of the electronics industry in Hawaii.

Computerized Student Registration and Record System. The current system of registration for courses by students at UH Manoa is archaic, resulting in unnecessary confusion and delays in the registration process. Obtaining information on student class standing and compliance with curriculum requirements are not readily available. To bring about an efficient computerized system integrated the admission process and payment system, your Committee provided funding to purchase necessary equipment and to hire technical personnel to assist in the development and implementation of a modern student information system.

Research Projects. In addition, your Committee placed special emphasis on research projects to be undertaken by the university of the benefit of the people of the State. Since the university serves as a research arm of the high technology development program advanced by the Governor last year, sufficient funding is included in the budget to carry out creative research proposals by the Pacific International Center of High Technology Research.

For the Hawaii Natural Energy Institute, which has been conducting important research on new and alternative energy resources for Hawaii for the past ten years, your Committee has increased funding over the previous year to accelerate studies in this area. The aim is to diminish our dependence on imported fossil fuels and meet the State's increasing energy demands.

Facility Improvement Projects. In keeping pace with the changing instructional needs and requirements for improved facilities at all campuses of the university, your Committee, upon review of all existing capital investment projects and new projects submitted by the university, authorized sufficient funding for designing and constructing needed improvements to old structures as well as the development of new facilities. Foremost in the consideration were projects which directly enhanced the educational benefits for students. The major projects in this area include the renovation of old structures (Bilger Hall, Edmondson Hall, and Klum Gym) and the development of a new medical school facility at the Kuakini Medical Center. Other projects at the Manoa Campus relate to student utilization of the bookstore where a new ground floor entrance must be constructed to provide for each accessibility by the handicapped. Funds have also been authorized for improvements to the campus center.

For the other campuses, particularly Honolulu Community College and Kauai Community College, provisions were made for the construction of new vocational education facilities. For Maui Community College, funds were appropriated for the much-needed improvements of the grounds, including parking and lighting of roadways. The continued development of the marine biology program on Coconut Island requires a new electrical system and, accordingly, adequate funding has been made available.

Lastly, as part of the university's agreement with the Mauna Kea observatory organization, the access road improvements and a new electrical transmission to the summit have been funded.

CULTURE AND RECREATION

Your Committee, aware of the necessity to make cultural programs more widely available, has adequately funded the performing and visual arts events program (AGS 881) through purchases of service with various private organizations.

Your Committee also recognizes the importance of recreational activities in everyday life and has provided funds to improve and renovate various boat launching facilities, including the construction of new facilities in Kapaa and Maunaloa. Your Committee has also provided funds to improve facilities at Malaekahana Beach Park and Ukumehame-Kaanapali Park, and expansion of Makena-La Perouse State Park.

PUBLIC SAFETY

Halawa Medium Security Facility. The problems of overcrowding in correctional facilities have led your Committee to carefully scrutinize expenditure in this area. In the General Appropriations Act of 1983, the sum of \$51.9 million was provided to fund a 500-bed Halawa Medium Security Facility which is intended to relieve overcrowding at Oahu Community Correctional Center. This year, the administration requested an additional \$16.5 million for construction of support facilities and an additional module unit.

Such major cost expenditures in an area which affects public safety during a period of fiscal austerity has required your Committee to seek creative strategies. After its review, your Committee is convinced that a prudent approach in this area requires an incremental development of the new facility supplemented with increased support for rehabilitative programs. At the same time, your Committee has also provided funds for rehabilitative programs for Oahu Community Correctional Center and the women's correctional facility.

Your Committee considers it a priority that the department of social services and housing begin to seek effective alternatives to the problems of overcrowding. The search for new options should begin with appropriate classification and deployment of inmates, renovation and reconstruction of present facilities, and development of rehabilitative programs which support reintegration of those incarcerated back into society as law-abiding citizens. Accordingly, your Committee provided \$1.25 million for the design and construction to supplement the existing water storage facilities for the purpose of increased utilization of Kulani Correctional Facility. Funds for the repair and maintenance of two watch towers located at the front gate and rear fence of Keehi Annex also have been provided in order to increase security of the inmate recreation area and prevent contraband from entering the facility.

Facility Security. Your Committee remains committed to ensuring a secure, orderly, and safe prison environment. To this end, your Committee has provided 18 new adult corrections officers for the Women's Facility, and 24 new adult corrections officers for Oahu Community Correctional Center. In addition, sufficient funding has been provided for the pre-release and furlough program to reduce overcrowdedness.

Your Committee also provided funds for two adult corrections officers for escort in transporting inmates to and from the Kona Court. For the Maui Community Correctional Center, your Committee also provided funds to improve and expand vocational-technical education at the Women's Facility, the Hawaii Youth Correctional Facility, the Halawa High Security Facility, and the Kulani Correctional Facility. Funds have also been provided to expand the livestock and agricultural programs at the Hawaii Youth Correctional Facility in order to increase food production and to provide an opportunity for inmates to achieve a sense of accomplishment and responsibility. Your Committee urges that agricultural products and livestock produced at the Hawaii Youth Correctional Facility and the Kulani Correctional Facility be exchanged for other food provisions needed from wholesalers.

INDIVIDUAL RIGHTS

Your Committee moved to strengthen the rights of individuals through the office of consumer protection, insurance commissioner, public defender, aid to victims of crimes, and the Commission on the Status of Women.

Office of Consumer Protection. The programs of the office of consumer protection have not been equal to the responsibilities charged to it by statutes. At its inception, the Legislature had envisioned the development of an active program providing support to consumers victimized by business institutions. In recognition of the recent occurrences in which businesses have solicited funds from consumers and then been unable to deliver on the promised services, your Committee is requesting the office of consumer protection to provide a definitive program design of how this office is to (1) provide leadership in acting on behalf of the interests of consumers and (2) relate to other agencies charged by statutes and engaged in programs which bear on the objectives of this office. Your Committee is also requesting the office to identify the benefits which are likely to be forthcoming from its programs.

These are the kinds of information which your Committee expects the office to provide in the next program and financial plan to be presented to the 1985 Legislative Session. In the meantime, your Committee recommends continued funding at the level previously authorized, with the hope that the additional information to be provided in the next Legislative Session will form the basis for providing additional funding to the office.

Office of the Insurance Commissioner. In 1973, the Legislature enacted the Hawaii No Fault Insurance Law to control motor vehicle insurance rates which have been rising at an unprecedented rate. Yet, since the enactment of the Hawaii No Fault Insurance Law, rates have continued to increase rather than leveling off as anticipated. Your Committee is concerned that the law is not functioning in the manner intended. Therefore, your Committee has provided funds to the office of insurance commissioner to conduct a review of the State's No Fault Insurance Law and its relationship to rising motor vehicle insurance rates.

Public Defender. The role of the office of public defender in protecting the individual rights of citizens should be buttressed by adequate legal personnel to assure the effective and speedy administration of justice. Your Committee agrees that additional appropriations should be provided for temporary personnel to meet increased felony trial workloads and for salary adjustments to ensure compensation parity with other government attorneys.

Aid to Victim and Witnesses of Crimes. Your Committee finds that the victims coordinator programs of the various county prosecuting attorneys provide a valuable service to reduce trauma and frustration felt by crime victims and witnesses. Accordingly, funding is provided through the office of attorney general with the stipulation that the counties shall match 20 per cent of the amount provided by the State and submit financial reports in support of program activities.

Commission on Status of Women. Your Committee recommends funding of the commission for another year, contrary to the decision made last session to terminate the commission on June 30th of this year. The funding is being made on the premise that the commission will provide the 1985 Legislature with a report outlining its program plans to further the interest of women, its relationship to other agencies engaged in similar activities, and an appropriate organizational structure and implementation plan to achieve the objectives and activities proposed by the commission.

GOVERNMENT-WIDE SUPPORT

Grants-In-Aid to Counties. Your Committee has recommended continued funding at the current level. The grants-in-aid to counties program currently costs the State approximately \$19 million annually with about \$8 million granted to the City and County of Honolulu, \$3 million to Maui, \$4 million to Hawaii, and \$3 million to Kauai.

The original rationale for the grants-in-aid program was based on the fact that the policymaking for all taxes levied in Hawaii was formerly vested in the State, but this situation no longer exists. The real property tax is now entirely vested in the counties and as such the counties have the power to not only set the tax rates, but also to determine how property is to be assessed and classified as well as how the tax is to be levied and collected.

Your Committee believes that it is the responsibility of the counties to explore all options of the real property tax system to generate adequate funding for county programs. Your Committee also believes that the counties should take aggressive steps to collect delinquent property taxes which have nearly doubled since the counties have assumed responsibility for assessment and collection.

Taxation. The effective and equitable administration of the tax laws is a prime requirement for public confidence in the governmental process. Your Committee is aware of the administrative problems in the department of taxation and is encouraged by the efforts being made by the department to correct these problems. Your Committee has provided funds to continue the upgrading and modernization of the department.

Vendor Payment System. Delays in the State vendor payment system is costly for vendors as well as the State. Vendors with tight cash flow situations cannot tolerate delayed payments. The State recognizes the burden this places on these vendors and has passed legislation to reduce the statutory period allowed for the State to pay for goods and services from sixty days to forty-five days.

Vendors, in order to remain solvent, under a delayed payment system must build into their pricing structure interest costs they incur as a result of loans. If vendors can be assured of reasonably speedy payments, prices can be adjusted down by discounting such built-in interest costs.

Your Committee has provided funds to the department of accounting and general services to allow modification of its computerized payment system to meet this legislative mandate.

Legal Service. Your Committee is concerned with maintaining high standards of legal services available to the State. The increase in the number and complexity of litigation involving the State necessitates providing the office of the attorney general with supplemental appropriations. These funds are intended for hiring additional attorneys, to pay for increased litigation costs, and for salary adjustments to ensure compensation parity with other government attorneys.

Disability Compensation. Your Committee has included appropriations to improve the State Workers Compensation Program. A centralized unit in the department of personnel services has been authorized to help monitor the program and to reduce unnecessary claims.

Collective Bargaining Costs. Your Committee's review of the financial condition of the State shows that all costs associated with the recently concluded contract negotiations with the various public employee unions can be accommodated within the latest revenue estimates of the Council of Revenues. The

costs of salary adjustments and increased employers' contribution for medical insurance will not cause the total general fund appropriations to exceed the statutory expenditure ceiling. Accordingly, appropriations to implement the bargaining agreements are provided in this bill as well as in separate legislation.

Election Administration. Your Committee has provided appropriations to the Office of the Lieutenant Governor to ensure that voters are informed of the new reapportionment plans and to realign the State's census tract/block data base.

PURCHASES OF SERVICE FROM PRIVATE AGENCIES

Your Committee's review of the purchase of service (POS) program was guided by three basic objectives: (1) to define appropriations for private agencies as purchase of service rather than as "grant-in-aid", where it is clear that the private agency's programs are part of and serve the purpose of government programs, (2) to develop a system of services focused on program activity rather than on individual organization, and (3) to ensure and facilitate programmatic and fiscal monitoring of expenditures.

The recommended levels of funding were based on reviewing evaluations accompanying each application, assessing the relationship of activity or service to program goals, and the availability of other sources of funding. This approach allowed your Committee to be sensitive to the needs of private agencies while maintaining its commitment to fiscal accountability. As a result, your Committee has provided \$8.9 million for the purchase of service program.

Further, it is your Committee's intent that the purchase of service program be considered an integral part of the total state operating budget and that executive planning, budgeting, implementation, and evaluation be applied to private agencies as would be applied to any other executive department or agency. To ensure the continuation of this process begun by your Committee, amendments to Chapter 42, Hawaii Revised Statutes, are being provided in separate legislation.

This budget bill expresses your Committee's commitment to fiscal integrity while continuing to respond to the challenges of a changing society. Your Committee is satisfied that this supplemental budget offers a cautious and responsible approach to funding.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1640-84, 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. 1640-84, H.D. 1, S.D. 1, C.D. 1.

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

Senator Aki did not sign the report.

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. 78-84 on H.B. No. 1751-84

The purpose of this bill is to authorize the Hawaii Career Information Delivery System, better known as Career Kokua in the Department of Labor and Industrial Relations, to share occupational and career information pertaining to Hawaii with other information systems, states, counties, territories and private entities on a cost reimbursement basis. H.B. No. 1751 will enhance Hawaii's leadership role in the Pacific and elsewhere and enable Career Kokua to enjoy a greater benefit from its activities.

Your Committee upon further consideration has made the following amendments to H.B. No. 1751-84, H.D. 1, S.D. 2

- (1) The temporary special fund has been deleted contingent upon a \$157,633 appropriation increase for the HCIDS program.

- (a) The projected income is to be deposited into the State General Fund.
 - (b) HCIDS is authorized to spend only what it received as income.
- (2) The language of the bill will be that of H.D. 1, with three changes made to bring this language in line with the legislative intent.
- (a) The language "The general fund appropriation shall include the projected income for the terms and conditions of the resulting agreements or contracts for the proposes set forth herein." is added to page 2, line 21.
 - (b) The language "prior to its effective date" is deleted from page 3, line 7.
 - (c) The language "as reimbursement for the authorized expenses set forth herein. The net result would be no additional cost to the State." is added at the end of line 8 on page 3.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1751-84, 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. 1751-84, 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, Chun, Graulty, Levin and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 79-84 on H.B. No. 654

The purpose of this bill is to repeal section 403-38.5, Hawaii Revised Statutes, and to add a new section to chapter 403 which would establish a filing requirement for individuals and corporate entities seeking a controlling interest in Hawaii banks.

Currently, section 403-38.5, Hawaii Revised Statutes, provides that no more than 25 per cent of the total voting stock of banks regulated under chapter 403 shall be held or acquired by foreign corporations or nonresident aliens, unless prior written approval is obtained from the Bank Examiner. The proposed language replaces 403-38.5, Hawaii Revised Statutes, with a requirement that any person seeking to acquire control of a section 403, Hawaii Revised Statutes, bank or holding company must provide 60 days' prior written notice to the State Bank Examiner.

To understand the merits of this proposal, it is important to consider the change in Bank Control Act of 1978, Title VI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (hereinafter referred to as the "Act").

The Act gives the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency the authority to disapprove changes in control of insured banks and bank holding companies. Similar to section 403-38.5(b), Hawaii Revised Statutes, the "Act" defines control as the power, directly or indirectly to vote 25 per cent or more of any class of voting securities or to direct the management or policies of an insured bank. 12 U.S.C.S. §1817(j)(8)(B). The Act goes much further than section 403-38.5, Hawaii Revised Statutes, in that it requires extensive written notice to be filed with the appropriate Federal banking agency. More importantly, the Act, unlike section 403-38.5, Hawaii Revised Statutes, lists the factors and standards that the Federal banking agencies are to consider in determining whether a proposed acquisition should be disapproved. These factors address the concerns expressed in section 403-38.5, Hawaii Revised Statutes, in that they require consideration of financial condition, competence, experience, and integrity of the acquiring party, as well as the effect of the acquisition on competition.

Your Committee is in agreement that section 403-38.5, Hawaii Revised Statutes, should be repealed since the State is regulating an area already fully and

effectively regulated by the Federal government. The Federal government has the resources to more adequately regulate this area. The State's interest is also adequately protected by the notification of the State Bank Examiner in the existing Federal statute and the proposed legislation. Should the Bank Examiner have objections to the potential acquiring party, those objections can be made to the Federal regulating authority. Additionally, the application of section 403-38.5, Hawaii Revised Statutes, may result in a conflict between the State and Federal statute concluding in the State statute being pre-empted by the Federal statute.

Your Committee, upon further consideration, has amended the bill by amending section 4 to read as follows: "This Act shall take effect upon its approval."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 654, 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. 654, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 80-84 on H.B. No. 2203-84

The purpose of this bill is to require that all storage water heaters sold or installed in Hawaii after December 31, 1984, meet the energy efficiency standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Incorporated (ASHRAE), Standard 90. Currently, some county building codes require water heaters with energy efficiency standards equivalent to ASHRAE standards. But, sale of nonconforming water heaters may be installed to replace old water heaters since no building permit is required for existing structures.

Your Committee upon consideration of H.B. No. 2203-84, H.D. 2, S.D. 1 had made the following amendments thereto:

- (1) The last day to sell water heaters not complying with ASHRAE 90 Standards is changed from December 31, 1984 to June 1, 1985 to allow retailers and wholesalers enough time to sell out all noncompliance water heaters before the last day to sell.
- (2) The bill has been amended to allow Hawaii wholesalers to sell noncomplying hot water heaters out of state.
- (3) Wording has been added so that retailers and wholesalers cannot purchase more stock of non-compliance water heaters after the law is enacted.

In effecting the aforesaid changes, your Committee by inadvertence omitted certain section and subsection numbering, the section caption, and the required underscoring to indicate the amendments. Your Committee has effected these nonsubstantive technical changes to C.D. 1.

The changes to new subsection (a) of the new section to be added to Chapter 196, Hawaii Revised Statutes, appropriately designated as set forth in Section 1 of the bill read as follows:

"§196- . Energy efficient storage hot water heaters. (a) No new storage hot water heater which is not certified as meeting the energy efficiency standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., as set forth as the current ASHRAE 90 Standard, shall be sold or installed in the State after June 1, 1985; provided, however, that nothing contained herein shall prevent sales from being made in the State for use outside the State. Upon effective date of this Act, no retail seller or distributor shall increase their inventory of storage hot water heaters which are not certified as being in compliance with the current ASHRAE 90 Standard, and all storage hot water heaters sold after June 1, 1985 shall be certified by the manufacturer, or the retailer, or both, as being in compliance with the current ASHRAE 90 Standard."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2203-84, H.D. 2, 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. 2203-84, H.D. 2, S.D. 1, C.D. 2.

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

Representatives Okamura, Bunda, Crozier, Kiyabu-Saballa, Menor, Nakata and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 81-84 on S.B. No. 1846-84

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. 1846-84, S.D. 1, H.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as S.B. No. 1846-84, S.D. 1, H.D. 1, C.D. 1.

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

Senator Uwaine did not sign the report.

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

Conf. Com. Rep. No. 82-84 on H.B. No. 2092-84

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

The Judiciary supplemental budget focuses on alleviating the increased number of cases coming into the courts. While the Appellate Courts have achieved currency in its caseload, the Circuit Courts' criminal and civil divisions are experiencing a significant case backlog.

Your Committee supports the Judiciary's objective to speed case processing and reduce backlogs and is encouraged by the Judiciary's progress in alleviating this problem. Your Committee has provided resources to allow for a new Master Calendaring system in the Circuit Courts. In addition, authorization has been provided for temporary courtrooms. Both of these provisions will have a major impact in clearing the backlog of cases at the courts.

Further your Committee is establishing the Office of the Public Guardian to act as the legal guardian for individuals who cannot be legally responsible. In testimony presented before your Committee, such a function was favored to be needed.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2092-84, 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. 2092-84, H.D. 1, S.D. 2, C.D. 1.

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

Senator Uwaine did not sign the report.

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

Conf. Com. Rep. No. 83-84 on H.B. No. 2320-84

The purpose of this bill is to amend chapter 843, Hawaii Revised Statutes, relating to the Hawaii Crime Commission, and to appropriate \$302,000 for the fiscal year 1984-1985 to operate the Commission. These funds will be expended through the Office of the Lieutenant Governor.

Your Committee concurs with the finding that there is a need to continue the commission and that the work of the commission should be focused on the evaluation of the criminal justice system and the development of public education programs. Over the years, the commission has provided reports on the criminal justice system to the legislature.

Your Committee upon further consideration has made the following amendments to H.B. No. 2320-84, H.D. 2, S.D. 1.

- (1) Appropriated \$302,000 for fiscal year 1984-85.
- (2) Made technical, non-substantive, amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2320-84, 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. 2320-84, H.D. 2, S.D. 1, C.D. 1.

Senators Yamasaki, Chang, Uwaine and Ajifu
Managers on the part of the Senate

Senator Uwaine did not sign the report.

Representatives Stanley, Kiyabu, Honda, Lardizabal, Morgado, Yoshimura
and Anderson
Managers on the part of the House

Representatives Morgado and Yoshimura did not sign the report.

Conf. Com. Rep. No. 84-84 on H.B. No. 1956-84

The purpose of this bill is to limit the health benefits contributions by public employers for employee-beneficiaries who retire with at least five but less than ten years of credited service to one-half of the statutorily specified amounts.

After examining the rising cost of public employer contributions for retired employees, your Committee on Conference finds that these short-term employees should not be afforded the same contribution benefits as long-term or career employees, and should share the cost of their medical plan benefits with their respective public employers. Accordingly, your Committee recommends that public employers should contribute at least one-half of the standard medical plan premium cost paid by active employees for qualifying short-term employees.

Your Committee upon further consideration has made the following amendments:

- (1) Established specific medical plan contribution amounts for those employees retiring after June 30, 1984;
- (2) Redefined the eligibility criteria of more than five years but less than ten years of credited service by adding a sick leave exclusion; and
- (3) Changed the effective date from "upon approval" to "July 1, 1984".

Other technical, nonsubstantive amendments for style and clarification have also been made to this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1956-84, 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. 1956-84, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Albano, Yoshimura, Graulty, Lardizabal, Wong and
Anderson
Managers on the part of the House

Conf. Com. Rep. No. 85-84 on H.B. No. 2402-84

The purpose of this bill is to extend the expiration date for the department of budget and finance to issue special purpose revenue bonds assisting utilities serving the general public from June 30, 1984, to December 31, 1991.

Act 15, Session Laws of Hawaii 1981, First Special Session, authorized the department of budget and finance to issue special purpose revenue bonds during the period from July 1, 1981, through June 30, 1984, for capital improvement programs of four major utility companies in the State. The entire amount authorized has not been issued and will not be issued by the June 30, 1984, deadline.

Your Committee finds that an extension of the time for bond issuance under Act 15 is in the public interest as it will enhance the ability of the utilities to develop projects utilizing Hawaii's renewable energy resources, thereby reducing the State's dependence upon imported petroleum.

Your Committee upon further consideration has amended the bill by correcting the following errors on page 2 of S.D. 1:

- (1) Line 3: "Multi-Project" should read "Multi-project".
- (2) Line 6: "Hawaiian Electric Light Co." should read "Hawaii Electric Light Co.".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2402-84, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2402-84, S.D. 1, C.D. 1.

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

Representatives Bunda, Morgado and Isbell
Managers on the part of the House

Conf. Com. Rep. No. 86-84 on H.B. No. 1906-84

The purpose of this bill is to provide funds to support certain statewide agricultural activities.

Your Committee finds that continued state support for the nematode control research, commodity group research, and pesticide education programs provided under this bill is necessary to increase the marketability of Hawaiian agricultural products. Although single-year funding has been retained in this measure for the two 3-year nematode control projects involving 1) the study of managerial strategies to minimize the use of chemical nematicides on pineapples, and 2) research on and development of nematicides and methods of nematicide application, your Committee emphasizes that both are multi-year projects whose continued funding in future years is vital to Hawaii's agricultural industries.

Your Committee also finds that the State Farm Fair has been very successful in promoting Hawaii's diversified agricultural products. As an expression of state support for and encouragement of the promotional activities of the State Farm Fair, your Committee has amended this bill to include a \$20,000 appropriation for the State Farm Fair. This additional appropriation brings the bill's total appropriation up to the sum of \$193,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1906-84, 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. 1906-84, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Takamine, Kiyabu, Crozier, Kawakami, Nakata, Souki and
Isbell
Managers on the part of the House

Conf. Com. Rep. No. 87-84 on S.B. No. 20

The purpose of this bill is to change the time within which the State and counties are required to pay for goods and services from no later than 60 calendar days following receipt of a statement to a period no earlier than 30 days, except with the approval of the comptroller, and no later than 45 calendar days following the receipt of a statement or satisfactory delivery of the goods or performance of the services, whichever is later, before any interest is assessed; and changes the interest allowed on unpaid principal from 1 per cent a month to 12 per cent simple interest a year to commence on the forty-fifth day following the receipt of the statement or satisfactory delivery of the goods or performance of the services, whichever is later, and ending on the date of the warrant.

This bill also exempts the State and counties from paying such interest if a delay in payment is due to (1) a bona fide dispute concerning the services or goods contracted for; (2) a labor dispute; (3) a power or mechanical failure; (4) fire; (5) acts of God; or (6) any similar circumstances beyond the control of the State or any county.

Finally, the bill allows, where payment is contingent on federal funds or approval, interest to accrue on the forty-fifth day following receipt of a statement or the thirtieth day following receipt of federal funds or approval, whichever is later, and requires that interest to end on the date of the warrant.

Your Committee has amended the bill by repealing the provision limiting the application of the section to where payment is withheld arbitrarily or erroneously, and by making technical and nonsubstantive changes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 20, 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. 20, S.D. 1, H.D. 2, C.D. 1.

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

Senator Kawasaki did not sign the report.

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

Representative Yoshimura did not sign the report.

Conf. Com. Rep. No. 88-84 on S.B. No. 2125-84

The purpose of this bill is to provide financial relief to state and county retirees to counter the erosion of the purchasing power of their pensions due to inflation and the inadequacy of the present post-retirement and cost-of-living bonus provisions in the law.

The post-retirement bonus program was initiated in 1961. Thereafter, the cost-of-living bonus became effective on January 1, 1966, and was increased several times thereafter. The process of legislating these retirement increases, however, is costly and time-consuming, and your Committee finds that there is a need to address comprehensive changes to expedite this process.

Your Committee has amended this bill as follows: (1) to provide a bonus of 50 cents a month for each year of credited service for persons who retired after June 30, 1970, and before July 1, 1975; (2) to provide a bonus of \$1.00 a month for persons who retired after June 30, 1975, and before July 1, 1979;

and (3) deleting \$4.35 a month increase for all pensioners for the period of January 1, 1985, to June 30, 1985.

Your Committee has also amended the bill by providing for a \$1,000,000 appropriation for fiscal year 1984-1985 from the general fund.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2125-84, 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. 2125-84, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Albano, Kiyabu, Graulty, Wong, Yoshimura and Anderson
Managers on the part of the House

Representative Yoshimura did not sign the report.

Conf. Com. Rep. No. 89-84 on S.B. No. 878

The purpose of this bill is to make the amounts of public employer contributions to the Hawaii public employees health fund negotiable under collective bargaining and establish provisions for the adjustment of contribution amounts for excluded employees.

Your Committee finds that, during periods of difficult negotiations, consideration of health fund contributions as part of the total pay package may assist the public employers and exclusive representatives of collective bargaining units in settling their disputes. Your Committee, by specifying that the contribution amounts are cost items, retains with the legislature the authority to approve or disapprove the amounts in the tentative agreements.

Your Committee has made the following major amendments.

(1) Contribution amounts are to be negotiated and agreed to separately with each exclusive representative. The bill, as received, required the contributions to be determined by agreement between the public employers and all exclusive representatives acting jointly.

(2) Mediation is made available for disputes on the contribution amounts. The bill, as received, excluded disputes on contribution amounts from mediation procedures. The bill, as amended, however, continues to exempt disputes on contribution amounts from fact-finding and voluntary arbitration procedures.

(3) For the firefighters' bargaining unit, contribution amounts are not subject to the mandatory arbitration procedures of law. Under the bill, as received, contribution amounts were to be part of the package submitted by the public employers and exclusive representative to the arbitration panel. The bill has been amended to separate contribution amounts from the packages submitted. New provisions have been added which require the contribution amounts to be submitted to the legislature if not agreed to between the public employers and exclusive representative by the tenth working day after the arbitration panel reaches a decision. If agreement is not reached within that time, the public employers and exclusive representative are required to submit separately recommended contribution amounts to the legislature for establishment by legislative enactment. If agreement on the contribution amounts is reached within the time allowed, the amounts are included as part of the final and binding agreement. Your Committee reiterates that no strike shall be allowed over disputed contribution amounts.

(4) Definitions of "collective bargaining", "employee organization", and "mediation" under section 89-2, Hawaii Revised Statutes, have been amended to conform to the provisions of this bill.

(5) The provision has been deleted which required the public employers to pay contributions to the health fund only when collective bargaining agreements are in full force and effect.

(6) The provision on legislative enactment of contribution amounts for excluded employees who are not subject to the same compensation plans as

employees under collective bargaining has been reworded for clarification.

(7) The wording of the effective date has been changed for clarification.

In addition, other technical, nonsubstantive changes have been made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 878, 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. 878, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Albano, Kiyabu, Crozier, Yoshimura and Medeiros
Managers on the part of the House

Representative Yoshimura did not sign the report.

Conf. Com. Rep. No. 90-84 on S.B. No. 1709-84

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

This bill includes judgments against the State and settlement claims and miscellaneous claims. The miscellaneous claims include interest refunds to Aloha Airlines, Inc., and to Hawaiian Airlines, Inc.

Your Committee has further amended this bill by including four additional settlements recommended by the attorney general. These settlements have resulted from claims arising under the following cases: (1) Gloria Jean Cabotaje v. Chief Clerk of the Second Circuit as Special Administrator of the Estate of Derek E. Souza, et al.; (2) Fireman's Fund Insurance Company v. State of Hawaii, Department of Land and Natural Resources; (3) Linda Yadao and Emil Yadao v. State of Hawaii, et al.; and (4) a case involving a Ms. Cynthia R. Silva.

Your Committee has further amended this bill by adding the miscellaneous claim of Mr. Oliver Shane Lunasco.

As a result, this bill makes an appropriation in the total amount of \$7,365,872.82 for the payment of claims.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1709-84, 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. 1709-84, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Kiyabu, Bunda, Kawakami, Wong and Anderson
Managers on the part of the House

Representative Bunda did not sign the report.

Conf. Com. Rep. No. 91-84 on H.B. No. 1874-84

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in the Supplemental Appropriation Act of 1984, the Judiciary Supplemental Appropriations Act of 1984, and the General Improvements Act of 1984.

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. 1874-84, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1874-84, S.D. 1, C.D. 1.

Senators Yamasaki, Aki, Hagino, Holt, Kawasaki, B. Kobayashi, Machida, Mizuguchi, Solomon, Uwaine, Young, Ajifu, Henderson and Soares

Senator Uwaine did not sign the report.

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. 92-84 on S.B. No. 1788-84

The purpose of this bill is to clarify and redefine the provisions relating to the general fund expenditure ceiling and to extend the ceiling requirements to June 30, 1988.

Act 277, Session Laws of Hawaii 1980, implemented the provisions of the constitutional amendments ratified in 1978 which required that the legislature establish an expenditure ceiling to limit the rate of growth of general fund appropriations to the estimated rate of growth of the State's economy. A sunset clause was included to allow for periodic review of the specific provisions contained in the Act to ensure that they comply with the original intent and that they are useful and workable.

The current provisions relating to the state general fund expenditure ceiling are set to be repealed as of June 30, 1984.

After reviewing the manner in which the expenditure ceiling mechanism has worked since its enactment, your Committee finds that it should be extended for a two-year period instead of a four-year period.

Your Committee has further amended the bill to provide that the state growth shall continue to be measured as the average annual percentage change in total state personal income for the three calendar years immediately preceding the session of the legislature making the appropriations from the state general fund.

Your Committee finds that due to revisions in the personal income series by the United States Department of Commerce, Bureau of Economic Analysis, the calculation of the state growth and the expenditure ceiling may lose accuracy over the years. Your Committee has amended the bill to allow the use of the most recent available data and recalculation back to the base year 1978-1979. Your Committee has further provided that if such recalculation results in an expenditure ceiling for a prior year being lower than the appropriations in that year, such result shall not invalidate any prior appropriations.

Your Committee has clarified the provision of estimates of the total state personal income, for any year in which such income has not been determined and published, required of the council on revenues to provide that such estimates shall be limited to the next succeeding calendar year. This requirement will greatly assist in the preparation of the biennial budget as a calculation of the expenditure ceiling is necessary for both years of the biennium. Your Committee cautions that this estimate is just that, an estimate, and will apparently be based on less solid data than the data used by the council on revenues

to project revenues.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1788-84, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1788-84, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Kiyabu, Bunda, Kawakami, Wong and Anderson
Managers on the part of the House

Representative Bunda did not sign the report.

Conf. Com. Rep. No. 93-84 on H.B. No. 2151-84

The purposes of this bill are as follows:

- 1) To change from June 30, 1984 to an unspecified date the date of termination of the transfer, pursuant to section 237-31, Hawaii Revised Statutes, of the funds derived from the state general excise tax on retail sales of certain liquid fuels from the state general fund to the state highway fund;
- 2) To require the director of taxation, with the approval of the governor, to establish by July 1 of each year, rather than by July 1 of 1981, 1982, and 1983, a formula that will equitably determine the sum to be transferred, pursuant to section 237-31, Hawaii Revised Statutes, from the general fund to the highway fund;
- 3) To amend subsection 243-4(a), Hawaii Revised Statutes, to amend the state license tax on certain liquid fuels from 8½ cents for each gallon to an unspecified sum for each gallon;
- 4) To amend subsection 243-4(b), Hawaii Revised Statutes, to amend the state license tax on certain sales and uses of diesel oil by diesel oil distributors from 7½ cents for each gallon to an unspecified sum for each gallon;
- 5) To amend section 249-31, Hawaii Revised Statutes, to replace the present \$1 state vehicle registration fee with a fee of an unspecified sum;
- 6) To amend section 249-33, Hawaii Revised Statutes, to amend the amount of the state vehicle weight tax;
- 7) To provide that the amendments referred to in 1,2,3, and 4 above would be effective on July 1, 1984 and the amendments referred to in 5 and 6 above would take effect for motor vehicle registration periods beginning September 1, 1984; and
- 8) To make technical amendments to the aforementioned statutes.

Under present law there are several permanent sources of revenue for the state highway fund created pursuant to section 248-8, Hawaii Revised Statutes. Primary among these are state vehicle registration fees, state fuel taxes and state vehicle weight taxes.

Because of the decrease in gasoline used per vehicle due to better fuel efficiency and because of decreased usage of automobiles, revenues derived from the state fuel tax have diminished. At the same time, the costs of building and maintaining highways and related facilities and equipment have increased dramatically.

Pending determination of a long-term solution to the problem of maintaining the solvency of the state highway fund, the State decided in 1981 to amend Section 237-31, Hawaii Revised Statutes, to transfer the four per cent state general excise tax on the retail sale of most liquid fuels in the State from the state general fund to the state highway fund. This transfer was scheduled to end on June 30, 1984. However, your Committee has amended the bill to extend this transfer for three years. It has done so by deleting "1984" and replacing it with "1987" at Section 1, page 1, line 11 of the bill, as it was

referred to your Committee. Because of this amendment, your Committee has replaced "each fiscal year" at Section 1, page 2, lines 1 and 2 of the bill, as it was received by your Committee, with "1984, 1985, and 1986".

Your Committee has further amended the bill by deleting Sections 2, 3, and 4 of the bill, as it was referred to your Committee. Your Committee has accordingly renumbered all sections of the bill other than Section 1. Your Committee has renumbered the former Section 5 of the bill Section 2.

Your Committee has renumbered the former Section 6 relating to the effective date Section 5. It has also amended the effective date provision to make the bill effective on July 1, 1984.

Section 36-28, Hawaii Revised Statutes, provides for an annual transfer of five per cent of all receipts and deposits in the state highway fund, after certain deductions, to the state general fund. Because Section 237-31, Hawaii Revised Statutes, provided for the termination of the transfer of the funds derived from the state general excise tax on certain liquid fuels from the general fund to the highway fund, the Executive Budget anticipated a five per cent transfer, pursuant to Section 36-28, of approximately \$500,000 for fiscal year 1984-85. Because this bill provides an increase to the receipts and deposits of the state highway fund, a \$500,000 appropriation would be insufficient. Therefore, your Committee has amended the bill to add a new Section 3 which reads as follows:

For fiscal year 1984-85, all taxes deposited in the state treasury to the credit of the state highway fund pursuant to Section 1 of this Act shall be exempt from the provisions of section 36-28, Hawaii Revised Statutes.

Finally, your Committee has amended the bill to add a new Section 4, a severability clause.

Your Committee discussed at length the need for a study of the highway fund. The discussion encompassed both revenue sources for and expenditures from the state highway fund and the short and long-term interrelationship between such revenues and expenditures. Your Committee urges that the Speaker of the House of Representatives and the President of the Senate appoint a joint House-Senate interim committee to evaluate the present highway policies and priorities of the Department of Transportation. This committee would be requested to come up with a plan, in cooperation with the Department of Transportation, for the long-term solvency of the state highway fund. Your Committee further urges that the President of the Senate and the Speaker of the House allot sufficient moneys to fund necessary staff and expenses for this interim committee.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2151-84, 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. 2151-84, H.D. 2, S.D. 2, C.D. 1.

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

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

Representatives Bunda and Yoshimura did not sign the report.

Conf. Com. Rep. No. 94-84 on H.C.R. No. 26

The purpose of this concurrent resolution as received is to adopt the State Tourism Functional Plan of October 1982 as a State Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes, as amended by H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, provided that the adoption of this concurrent resolution would become effective only upon the enactment into law of H.B. No. 177, H.D. 1, S.D. 1, C.D. 1.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226,

Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies, and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After reviewing H.C.R. No. 26, H.D. 1, S.D. 2 and the amendments made to the plan in Exhibit A, your Committee has further modified the plan by amending Exhibit A by deleting the proposed revisions to Implementing Action B(3)(e) insofar as the language in the October 1982 version of the plan more appropriately addresses an emphasis on regional sewerage systems. Your Committee further finds that there have been and may be instances where resort destination zones are designated in areas where hookups to a regional sewage system is neither practical nor desired. These situations would therefore require approved, self-contained sewage treatment facilities.

Other technical, nonsubstantive amendments for consistency have been made to Exhibit A.

Your Committee on Conference concurs with the intent and purpose of H.C.R. No. 26, H.D. 1, S.D. 2, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 26, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Andrews, Hashimoto, Morgado, Nakasato, Takamine and
Jones
Managers on the part of the House

STANDING COMMITTEE REPORTS

SCRep. 1-84 Judiciary on Gov. Msg. No. 1

Recommending that the Senate consent to the nomination of BOYD P. MOSSMAN as Judge, Circuit Court of the Second Circuit, for a term of ten years.

Signed by all members of the Committee.

SCRep. 2-84 Judiciary on Gov. Msg. No. 2

Recommending that the Senate consent to the nomination of ROBERT G. KLEIN as Judge, Circuit Court of the First Circuit, for a term of ten years.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 3-84 Ways and Means on H.B. No. 1638-84

The purpose of this bill is to authorize funds for the expenses of the Legislature up to June 30, 1985, and also for the expenses of the legislative support agencies during the 1984-85 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 \$1,472,759 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 \$156,983 to the State Ethics Commission; provided that the expenditure of \$6,000 for a copy machine and \$1,500 for moving expenses shall be contingent on the relocation of the Commission to new offices before July 1, 1985.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves the appropriation of \$1,551,149 for the Legislative Reference Bureau. The total includes \$25,000 for the advisory study commission on water resources which was attached to the Bureau for administrative purposes by Act 170, Session Laws of Hawaii 1982, and \$200,000 for the land evaluation and site assessment commission which was attached to the Bureau for administrative purposes by Act 273, Session Laws of Hawaii 1983.

OMBUDSMAN

Your Committee approves the appropriation of \$368,674 for the Office of the Ombudsman.

LAPSE OF FUNDS

Appropriations under this bill are subject to lapse as of June 30, 1985.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1638-84, 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 Machida.

SCRep. 4-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1492-84 to 1628-84 have been printed and were distributed to the members of the Senate on February 2, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee except Senator Cobb.

SCRep. 5-84 Legislative Management

Informing the Senate that Senate Bill No. 1629-84 has been printed and was distributed to the members of the Senate on February 3, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee except Senator Young.

SCRep. 6-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1630-84 to 1652-84 have been printed and were distributed to the members of the Senate on February 6, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 7-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1653-84 to 1667-84 have been printed and were distributed to the members of the Senate on February 6, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 8-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1668-84 to 1689-84 have been printed and were distributed to the members of the Senate on February 8, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 9-84 Judiciary on Gov. Msg. No. 3

Recommending that the Senate consent to the nomination of PATRICK K.S.L. YIM as Judge, Circuit Court of the First Circuit, for a term of ten years.

Signed by all members of the Committee.

SCRep. 10-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1690-84 to 1692-84 have been printed and were distributed to the members of the Senate on February 9, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 11-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1693-84 to 1751-84 have been printed and were distributed to the members of the Senate on February 10, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 12-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1752-84 to 1781-84 have been printed and were distributed to the members of the Senate on February 13, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 13-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1782-84 to 1953-84 have been printed and were distributed to the members of the Senate on February 14, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 14-84 Judiciary on Gov. Msg. No. 114

Recommending that the Senate consent to the nomination of MARIE N. MILKS as Judge, Circuit Court of the First Circuit, for a term of ten years.

Signed by all members of the Committee.

SCRep. 15-84 Ways and Means on Gov. Msg. No. 105

Recommending that the Senate advise and consent to the nomination of HERBERT M. DIAS as Director of Taxation, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 16-84 Legislative Management

Informing the Senate that Senate Bill Nos. 1954-84 to 2251-84 have been printed and were distributed to the members of the Senate on February 15, 1984, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 17-84 Transportation on Gov. Msg. No. 104

Recommending that the Senate advise and consent to the nomination of WAYNE J. YAMASAKI as Director of Transportation, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 18-84 Transportation on S.B. No. 1793-84

The purpose of this bill is to allow the counties to increase revenue for highway beautification and to cover the cost of removing abandoned vehicles.

Currently Chapter 286-51, Hawaii Revised Statutes limits an additional fee for certificate of registration to not more than 50 cents per certificate. The City and County collects approximately \$200,000 annually at the established rate of 50 cents. This amount is not enough to meet highway beautification requirements as well as for disposal of abandoned vehicles. This bill will amend Chapter 286-51 by eliminating the limitation of 50 cents per certificate of registration fee.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1793-84 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. 19-84 Judiciary on S.B. No. 1447

The purpose of this bill is to effectuate the title.

Your Committee is amending this bill to provide for the early release of certain incarcerated persons under Section 353-22.5 of the Hawaii Revised Statutes. The amendment will allow the Director of the Department of Social Services and Housing or his agent to grant furloughs when existing correctional facilities reach a maximum capacity to incarcerated persons who: 1) were convicted of a misdemeanor or felony which did not involve violence against any person; 2) have less than ninety days remaining on their sentence; and 3) have served the mandatory or minimum sentence of imprisonment imposed, if any.

Your Committee on Judiciary is in accord with the intent and purpose of S. B. No. 1447, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1447, S.D. 1, and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee except Senators Cobb, Holt and A. Kobayashi.

SCRep. 20-84 Judiciary on S.B. No. 2108-84

The purpose of this bill is to add the definition of "antique firearm" and to extend the time allowed for registration of a firearm brought into the State from forty-eight hours to five days after arrival of the person or the firearm.

Your Committee amended the bill to exempt antique firearms from the requirements to register the firearm upon arrival in the State of the person or firearm, and to obtain a permit to acquire such a firearm. Your Committee finds the requirements to register and obtain a permit are needless burdens to the collectors of antique firearms which are incapable of firing modern ammunition.

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. 2108-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2108-84, S.D. 1, and be re-referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb, Holt and A. Kobayashi.

SCRep. 21-84 Judiciary on S.B. No. 2105-84

The purpose of this bill is to allow persons to carry and use firearms while travelling to and from and engaging in hunting or target shooting.

The present law allows such persons to carry and use a limited range of firearms, i.e., rifles and shotguns.

Your Committee is amending the bill to conform to Section 134-9 of the Hawaii Revised Statutes re: carrying concealed weapons. The amendment will allow persons lawfully licensed and actually engaged in hunting to carry concealed pistols or revolvers.

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. 2105-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2105-84, S.D. 1, and be re-referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Carpenter, Cobb, Holt and A. Kobayashi.

SCRep. 22-84 Ways and Means on S.B. No. 1578-84

The purpose of this bill is to add a new penalty for a taxpayer who willfully supplies false or fraudulent information to the taxpayer's employer for the purpose of reducing the amount of taxes to be deducted and withheld by the employer.

Your Committee finds that this bill would provide the department of taxation with an effective means of penalizing those tax protestors who claim excessive numbers of withholding exemptions on statements filed with their employers for the purpose of defying the tax laws on exemptions. This penalty would conform to federal enforcement provisions and has been adopted by other states as a means of discouraging this form of tax protest.

Your Committee has amended this bill by replacing the word "amount" wherever it appears in reference to the exemptions claimed for tax withholding purposes, with the word "number". This amendment is necessary to conform the bill with amendments to this section made in the 1983 legislative session.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1578-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1578-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 23-84 Ways and Means on S.B. No. 1579-84

The purpose of this bill is to discourage the filing of frivolous tax returns by imposing a \$500 penalty against taxpayers filing that kind of return. The penalty is to be added to the tax due and be in addition to any other penalty assessed against the taxpayer.

The department of taxation has testified that persons have filed tax returns containing insufficient information upon which to determine the taxpayer's correct tax liability, or have filed returns which contain information indicating that the stated tax liability is substantially incorrect. Those taxpayers have done so with the intent not to defraud the State but to delay the filing of a return. As such, the current penalties against the filing of fraudulent tax returns may not be applicable to those taxpayers. Therefore, the proposed section is intended to discourage conduct not addressed by current law. The proposed section is patterned after Section 6702 of the Internal Revenue Code of 1954, which contains a similar provision penalizing the filing of frivolous federal tax returns.

To be consistent with the language of that federal law, your Committee has deleted the words "shall be deemed to constitute" from lines ten and eleven of the bill as received.

Your Committee also 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. 1579-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1579-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 24-84 Ways and Means on S.B. No. 1580-84

The purpose of this bill is to (1) clarify the term executor in the definition of personal representative, and (2) clarify who is not considered to have possession, custody, or control of a decedent's estate.

The Hawaii Estate and Transfer Tax Law currently defines a "personal representative" to be only those who are court-appointed. Under this definition, persons can conceivably claim they are not personal representatives if they obtained possession, custody, or control of a decedent's estate as surviving joint tenants or contract successors, and not as court-appointed representatives of an estate. If that is the case, those persons can avoid the duties of a personal representative, including responsibility for the payment of the estate's tax liability. To avoid this result, persons should be considered personal representatives and therefore be responsible for an estate's taxes, if they are in possession, custody, or control of a decedent's estate, irrespective of whether they are or are not court-appointed representatives of the estate. This result is achieved by incorporating into the Hawaii Estate Tax law the definition of executor from the Internal Revenue Code.

A further amendment to the Hawaii Estate Tax law excludes mortgagees and pledgees from those persons not considered to be in possession, custody, or control of a decedent's estate.

Your Committee adopted the recommendation of the tax section of the Hawaii State Bar Association to amend section 2 of this bill with respect to section 236D-12(c).

The purpose of the amendment is two-fold: it adds clarity to the amended subsection and avoids the erroneous implication in the current draft that the

institutions listed are "transferees".

Your Committee also 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. 1580-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1580-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 25-84 Ways and Means on S.B. No. 1581-84

The purpose of this bill is to change the dates general excise and use tax returns are required to be filed from the last day of the month following the month in which the taxes accrued to the 25th day of the following month, and to allow taxpayers filing quarterly general excise or use tax returns (those with tax liability of \$1,000 or less) to instead file such returns on a semiannual basis on or before the 25th day of the calendar month after the close of each semiannual period. Upon approval, this bill would apply to taxable years beginning after June 30, 1984.

Your Committee has amended the bill by changing the dates semiannual returns are required to be filed from the 25th day of the calendar month after the close of each semiannual period to the last day of such periods. Your Committee makes this amendment because the last day of the month is convenient and easy to remember, and taxpayers are used to this day being used as a deadline for filing tax returns.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1581-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1581-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep 26-84 Tourism on S.B. No. 1836-84

The purpose of this bill is to appropriate \$7 million to the Hawaii Visitors Bureau for its advertising and marketing programs and an additional \$1 million for general operational support.

The tourist industry is currently the driving force of Hawaii's economy as it is the leading source of income and jobs in the State. In 1982, 4.2 million visitors infused approximately \$3.7 billion into Hawaii's economy.

Currently, Hawaii faces the prospect of intensified competition in the world visitor market. Destinations that compete directly with Hawaii provide substantial tourism budgets such as \$25 million in the Bahamas, \$20 million in Mexico, \$12.3 million in Jamaica, \$9 million in Puerto Rico, and \$8.9 million in Florida.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1836-84 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. 27-84 Tourism on S.B. No. 2118-84

The purpose of this bill is to authorize the Director of Finance to issue general obligation bonds in the amount of \$952,000 for plans and construction, to expand the Waikiki Aquarium.

The Waikiki Aquarium was established in 1904 and the present structure was built in 1955. Through the years it has served millions of residents and visitors through exhibits and education programs. There has been concern on the part of the administration, the Legislature, and the public about the limitations of the existing facility. This concern has led to several studies of the aquarium and its potential.

In 1982 the Department of Planning and Economic Development published a

report entitled "Hawaii Islands Aquarium Conceptual Design and Feasibility Study" in which four possible scenarios for the Waikiki Aquarium were developed and analyzed: (1) a new aquarium at the existing site; (2) a new aquarium at an expanded site; (3) a new aquarium that would include the War Memorial; and (4) an expanded aquarium at the existing site. All of the scenarios were designed around a story line that would allow the visitor to follow the path of water from the mountains to the sea in an enjoyable and educational experience. The report recommended the fourth alternative that would make use of the existing facilities, expand and improve them by renovation and the addition of exhibits, and stay within the existing site boundaries.

The report also included a preliminary analysis of the economic consequences of expanding the Aquarium. The report concluded that the quality of the improved and expanded aquarium could increase the annual attendance from an average of 250,000 to approximately 700,000 assuming aggressive marketing and competitive admission prices.

Your Committee finds that an expanded and enhanced aquarium facility would be an asset to the both community and the visitor industry.

Your Committee amended the bill by expanding the purpose of the appropriation to include design in addition to plans and construction.

Your Committee further amended the bill by naming the Department of Planning and Economic Development as the expanding agency for administrative purposes instead of the Waikiki Aquarium.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2118-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2118-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 28-84 Transportation on S.B. No. 1750-84

The purpose of this bill is to provide assistance in defraying the costs of the alcohol abuse rehabilitation program by requiring the recipient of the services to pay a fine to be deposited in the driver education training fund.

Your Committee received favorable testimony from the Judiciary, State of Hawaii, regarding the benefits of the bill in defraying costs of the alcohol abuse rehabilitation program.

Your Committee has amended the bill by requiring that a person sentenced to attend an alcohol abuse rehabilitation program pay for the cost of the designated program and providing that if the program is conducted by a government agency, the payment be made directly to that agency. Your Committee further amended the bill by making technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1750-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1750-84, S.D. 1, and be referred to the Committees on Judiciary and Ways and Means.

Signed by all members of the Committee.

SCRep. 29-84 Transportation on S.B. No. 1582-84

The purpose of this bill is to correct certain deficiencies relating to sanctions imposed in and evidentiary rules applicable to cases of driving under the influence of intoxicating liquor.

The bill:

1. Provides for an absolute prohibition against operating a motor vehicle during license suspension in the case of a second conviction within five years for driving under the influence of intoxicating liquor. This prohibition conforms with the absolute prohibition imposed for a first conviction and will eliminate judicial confusion in the sentencing of repeat offenders.

2. Provides for an additional sanction of a fine in the amount of \$500-\$1,000 in the case of a second conviction within five years for driving under the influence of intoxicating liquor. This additional penalty brings the State's law within federal guidelines and will enable the State to qualify for a basic and supplemental federal grant.

3. Clarifies that section 291-4(a)(2) is an illegal per se provision by specifying that section 291-5(c) relating to the introduction of "other competent evidence" applies only to those instances where a person's breath or blood alcohol concentration is less than 0.10 per cent.

Your Committee has amended the bill as follows:

1. In the case of a second conviction within five years, the bill clarifies "ten days" of community service work to mean "80 hours" of community service work. This amendment conforms with language relating to community service work for a first conviction.

2. Clarified section 291-4 and section 291-5 to provide that alcohol concentration may be measured by a test of either a person's blood or breath. Present law makes reference only to a person's blood alcohol concentration.

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

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1582-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1582-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 30-84 Human Resources on S.B. No. 1493-84

The purpose of this bill is to allow the parties in the public sector collective bargaining process to extend the impasse resolution time period by mutual agreement, with the concurrence of the Hawaii Public Employment Relations Board.

Currently the basic time frame is set by law. This bill allows flexibility in instances where additional time could prove beneficial in resolving major issues, possibly leading to a settlement.

Your Committee heard favorable testimony from the Director of Personnel Services and the Office of Collective Bargaining.

Your Committee has amended the bill 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. 1493-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1493-84, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 31-84 Human Resources on S.B. No. 1520-84

The purpose of this bill is to incorporate the Quick Kokua Program and Career Resource Centers into a comprehensive and unified Transition Center System for delivery of career, employment, social, and health counseling to the youth of Hawaii.

Many traditional jobs have become obsolete and new industries in oceanography, communication, and hi-tech make high school and post high school career decision-making ever more complex and the need for transition services all the more crucial. Your committee finds that this bill will promote coordination between individual career resource centers in the utilization of resources, facilitate long-range planning to meet the career service requirements of Hawaii's students, provide a mechanism for inter-agency collaboration in delivering career services, and provide for the development of goals, objectives, school-to-work transition centers in Hawaii.

Your Committee heard favorable testimony from the Director of Labor and Industrial Relations, the Executive Secretary of the State Commission on Manpower and Full Employment, the Office of Instructional Services of the Department of Education, and other educators and students.

Your Committee has amended section 7 of the bill to provide that the report of the Director of the Department Labor and Industrial Relations to be submitted to the Legislature prior to the Regular Session of 1985 shall contain estimates of future program costs and alternate methods of delivery. Your Committee has further amended the bill 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. 1520-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1520-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 32-84 Human Resources on S.B. No. 1524-84

The purpose of this bill is to eliminate mandatory retirement from employment in the public and private sectors.

Current law sets a mandatory retirement age of seventy years for public employees and allows private employers to set a mandatory retirement age. This bill recognizes that chronological age, taken alone is not a reliable index of an individuals ability to remain on the job.

Your Committee heard favorable testimony from the Director of Labor and Industrial Relations, the Director of the Executive Office on Aging, the Director of the Department of Civil Service, City and County of Honolulu and others.

Your Committee amended the bill 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. 1524-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1524-84, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 33-84 Human Resources on S.B. No. 1525-84

The purpose of this bill is to extend authorization of the use of federal Reed Act credits from twenty-five to thirty-five years from the date the funds were first credited to the State.

Reed Act money was distributed to the State unemployment insurance funds in 1956, 1957, and 1958 under Section 993(c)(2) of the Social Security Act for payment of benefits or for administrative purposes. Hawaii was compelled to use these funds in 1976 when the State borrowed \$22.5 million from the federal government to pay unemployment claims. Subsequently, the Tax Equity and Fiscal Responsibility Act of 1982 provided that the Reed Act funds expended for unemployment claims be restored to state accounts.

Your Committee finds that extending the time limit for using the funds will allow the State to take advantage of the law to restore funds for future use.

Your Committee has amended the bill 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. 1525-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1525-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 34-84 Tourism on S.B. No. 928

The purpose of this bill is to appropriate \$200,000, to obtain public rights-of-way to hiking trails situated on State lands.

Your Committee heard testimony from the Department of Land and Natural Resources, the Hawaii Federation of Sportsmen and Pig Hunters Association of Oahu in support of this bill.

It is the intent to provide access to more trails which would prevent the overutilization of trails that are currently accessible and provide a greater diversity of recreational resources to the public. Further, providing rights-of-way would alleviate potential problems associated with persons trying to gain access by trespassing on private properties.

Your Committee amended the bill to change the effective date of the bill to July 1, 1984 and the appropriation made effective for fiscal year 1984-1985.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 928, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 928, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 35-84 Tourism on S.B. No. 1927-84

The purpose of this bill is to appropriate \$100,000 to the Department of Planning and Economic Development to promote and advertise the Island of Molokai as a visitor destination area.

In 1982, there were only 11,300 visitors to Molokai, approximately three-tenths of one percent of total visitors to the State in that year. The natural beauty of the East end, the historical significance of Kalaupapa, and the resort community at Kalua Koi make tourism a viable industry on Molokai. At the same time, the tenuous situation of pineapple operations on Molokai makes the tourist industry an attractive economic alternative for that island.

Your Committee received testimony in support of this bill from the Department of Planning and Economic Development and various tourist businesses on Molokai.

Your Committee finds that tourism offers the greatest potential for the vitalization of Molokai's economy. Though there are concerns relating to the socioeconomic impact of tourism on the island, the Department of Planning and Economic Development is in the process of conducting a study to develop a comprehensive economic adjustment strategy. The present economic condition of Molokai, however, is sufficient to justify the appropriation of \$100,000 to support its tourist industry.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1927-84 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. 36-84 Consumer Protection and Commerce on S.B. No. 1546-84

The purpose of this bill is to allow the Department of Commerce and Consumer Affairs' Business Registration Division to retain personnel hired under section 416-97, Hawaii Revised Statutes, for an additional year.

Under section 416-97, Hawaii Revised Statutes, a special fund was established in the Department to fund at least two temporary business registration assistant positions. The special fund is set to be repealed by statute on July 1, 1985. Act 153, Session Laws of Hawaii 1983, increased the amounts paid into the special fund by raising certain fees paid to the Department and providing for part of the increased fees to be paid into the special fund. However, Act 153 provides that after June 30, 1984, payment of a portion of the increased fees to the special fund shall cease and the entire amount of the fees shall be deposited in the general fund. This bill allows continued payment of a portion of the

increased fees into the special fund until July 1, 1985, the date on which the special fund terminates under section 416-97.

According to testimony presented by the Department, this extension is needed for several reasons. First, the extra year will allow the Department to realize the full benefit of the temporary personnel hired, since much of the Department's time thus far has been spent training the new hires. Secondly, the extension will allow the Department to better evaluate the feasibility of Act 153 to determine if these positions can be funded by the increased fees. Finally, the extension provides the Department with some compensation for the loss of three positions which were reassigned to the Business Registration Division, but were frozen by 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. 1546-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1546-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 37-84 (Joint) Housing and Urban Development and Consumer Protection and Commerce on S.B. No. 1564-84

The purpose of this bill was to transfer the regulation of factory built housing from the Department of Commerce and Consumer Affairs to the Hawaii Housing Authority.

In 1980, Act 302, Session Laws of Hawaii 1980, transferred the factory built housing program from the Department of Labor and Industrial Relations to the Department of Commerce and Consumer Affairs. That department does not have qualified personnel to regulate and supervise the program and currently contracts with an independent engineering firm to review the structural elements of an application for factory built housing and submits the electrical and plumbing elements to the Building Department, City and County of Honolulu, for its review.

Your Committees received testimony from the Department of Commerce and Consumer Affairs and the Hawaii Housing Authority in support of this measure, indicating that one of the Authority's major functions is the development of housing for low and moderate income families and the administration of the approval process for factory built housing would assist in the provision of lower cost homes. Furthermore, the Authority is presently utilizing factory built housing and with adequate staffing and funds would be the appropriate agency for administration of the program.

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

Your Committees on Housing and Urban Development and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 1564-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1564-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Carpenter and Ajifu.

SCRep. 38-84 Health on S.B. No. 1847-84

The purpose of this bill is to provide funds to the Hansen's Disease Program for the maintenance of current patient hours in the Patient Employment Program.

Your Committee received testimony from the Department of Health in support of this bill which will allow the Patient Employment Program to continue its operations for fiscal year 1983-1984.

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

No. 1847-84 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. 39-84 Housing and Urban Development on S.B. No. 1532-84

The purpose of this bill is to clarify the intent of Section 206E-12, Hawaii Revised Statutes.

As currently written, the law requires a developer to dedicate land or facilities, or cash payments in lieu of land or facilities, as a condition of development in the Kaka'ako District. It further provides that in the event state and county dedication laws differ, the law that provides for greater dedication will prevail.

This bill proposes to clarify these provisions by specifying that the dedication of land or facilities is for public facilities, as already defined in Section 206E-2, Hawaii Revised Statutes. Without this amendment, the term "dedication laws" could be misinterpreted to include county laws relating to the dedication of low- or moderate-income housing. Since the Kaka'ako Plan adequately addresses the provision of affordable housing through its reserved housing requirement for planned developments, any county dedication law related to low- or moderate-income housing should not be applicable to the dedication requirements imposed upon developers by the Authority.

Your Committee made technical nonsubstantive changes to conform the bill to recommended drafting format.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1532-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1532-84, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 40-84 Housing and Urban Development on S.B. No. 1533-84

The purpose of this bill is to authorize the Hawaii Community Development Authority (HCDA) to issue \$30,000,000 of assessment area bonds for district-wide infrastructure improvement projects in the Kaka'ako District.

Section 206E-6, Hawaii Revised Statutes, directs the Authority to undertake district-wide improvements of public facilities and to assess a part of the cost of these improvements against real property specially benefiting from such improvements. While this section authorizes HCDA to issue assessment bonds, the Legislature did not include a specified authorization amount.

The Authority testified that based on cost estimates projected to 1985, they will need to issue assessment bonds to finance \$25,000,000 to \$29,000,000 of the infrastructure cost.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1533-84 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. 41-84 Housing and Urban Development on S.B. No. 1536-84

The purpose of this bill is to allow the Hawaii Community Development Authority to utilize a 1983 CIP appropriation for plans, design, and land acquisition in addition to construction for the development of the Kaka'ako District, item K.2., Section 80, Act 301, Session Laws of Hawaii 1983.

The Authority testified that this bill will provide the needed flexibility to utilize the construction appropriation and that they anticipate a need to use such funds in the other expenditure categories for the development of Kaka'ako.

Your Committee on Housing and Urban Development is in accord with the

intent and purpose of S.B. No. 1536-84 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. 42-84 (Majority) Housing and Urban Development on S.B. No. 1570-84

The purpose of this bill is to allow the Hawaii Housing Authority to use the Fee Simple Residential Revolving Fund for lease rent renegotiation activities under chapter 519, Hawaii Revised Statutes.

Chapter 519 provides, among other things, that when parties to a residential lease are unable to achieve an agreement as to the new rent under a reopening provision, the Hawaii Housing Authority or its designee shall arbitrate and its findings shall be binding and conclusive. The law, however, does not provide a source of funds for any costs incurred by the Authority or its designee in administering the lease rent renegotiation program.

Your Committee received testimony from the Hawaii Housing Authority that the Fee Simple Residential Revolving Fund established under chapter 516, HRS, is the logical source of funding since chapters 516 and 519 both relate to residential real property leases.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1570-84 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. 43-84 Housing and Urban Development on S.B. No. 1572-84

The purpose of this bill is to amend section 516-51, Hawaii Revised Statutes, to preclude any party from introducing as evidence in chapter 516 condemnation trials, any offers, appraisals, or other substances of negotiations after a leasehold tract has been designated for conversion to fee simple.

It is the intent of this amendment to encourage open and honest discussions during preliminary negotiations by assuring lessors and lessees that information disclosed during this time cannot be used against them in trial.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1572-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 44-84 Housing and Urban Development on S.B. No. 1573-84

The purpose of this bill is to amend Section 7 of Act 50, Session Laws of Hawaii 1979, by increasing the authorization amount of tax exempt revenue bonds the Hawaii Housing Authority may issue under the Mortgage Subsidy Bond Tax Act of 1980 from \$475 million to \$875 million.

The State's revenue bond program, known as Hula Mae, has been an effective tool in providing home financing assistance, particularly to young families who are first time homebuyers. Although the sunset provision in the Federal law has stopped the issuance of mortgage revenue bonds as of December 31, 1983, the Department of Social Services and Housing testified there is strong support for re-enactment of the program in the U.S. Congress.

Currently, the principal aggregate amount of revenue bonds which the Hawaii Housing Authority is authorized to issue is \$475 million. Of this \$475 million, \$371 million in revenue bonds have been issued. Under the Mortgage Subsidy Bond Tax Act, the maximum amount of bonds which can be issued in any one calendar year is \$200 million. Because the State's remaining authorization is only \$104 million, the Hawaii Housing Authority will be \$96 million short of the authorization limit this year should Congress re-enact the mortgage revenue bond program.

Testimony received from the Hawaii Housing Authority indicates that the additional \$400 million authorization will be sufficient to carry out the Hula Mae program for at least another two and a half years.

Your Committee on Housing and Urban Development is in accord with intent and purpose of S.B. No. 1573-84 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 45-84 Housing and Urban Development on S.B. No. 2098-84

The purpose of this bill is to amend section 84-15, Hawaii Revised Statutes, to include the Office of Hawaiian Affairs (OHA) in the definition of "state agency" with respect to public contracts.

Section 84-15, HRS, delineates limitations on contracts for services or property between a state agency and a legislator, state employee or business in which a legislator or employee has a controlling interest. Under present law it is not clear whether the Office of Hawaiian Affairs is defined as a state agency for the purpose of section 84-15.

The Office of Hawaiian Affairs submitted testimony in support of the bill indicating that as a matter of internal administrative policy, OHA has always complied with the provisions of section 84-15 in the awarding of contracts.

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

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 2098-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2098-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 46-84 Transportation on S.B. No. 1583-84

The purpose of this bill is to strengthen statutes concerning alcohol and highway safety.

The bill: 1) allows a police officer to decide which test for alcohol concentration shall be given to an arrested person; 2) increases the penalties for refusal to take the test selected by the police officer, including the immediate surrender of the arrested person's license, permit or out-of-state license; and 3) includes mopeds within the scope of the implied consent statutes.

Your Committee heard favorable testimony from the Department of Transportation and the Police Department, City and County of Honolulu. Both departments cited the current problem where the failure to administer a breath test in accordance with the arrested person's request because of equipment malfunction results in a discharge of the arrest. The Police Department favored inclusion of mopeds in the implied consent laws since mopeds have rapidly risen in popularity and resulted in an increased number of accidents in the past two years. The Department of Transportation noted that increases in penalties for persons who refuse to take the selected test for alcohol concentration would encourage arrested persons to submit to testing.

Your Committee finds that the bill insures highway safety by providing for the immediate surrender of the arrested person's license, permit or out-of-state license upon refusal to take the designated test for alcohol concentration. Your Committee finds that, while the requirement of immediate surrender of a driver's license implicates a property interest, the summary procedure insures the State's compelling and legitimate interest in public safety, particularly in view of the availability of a timely post-suspension hearing.

Your Committee has amended the bill as follows:

1. To include a new section which provides for the immediate surrender and possible 90-day suspension of a person's license, permit or out-of-state driver's license upon being tested for an alcohol concentration of 0.10 per cent.

2. To include a provision for the issuance of a temporary license, effective for seven days, upon the surrender of a driver's license, permit or out-of-state driver's license.
3. To delete provisions which incorporate the penalties of section 291-4 and 286-104 into section 286-155 and which define a refusal to submit to testing as an offense under section 291-4 and section 286-104.
4. To delete the provision whereby a person is prohibited from pleading to an alternative offense in order to avoid the sanctions of section 286-155.
5. To provide that hearings on affidavits submitted under the implied consent laws shall be held within fifteen days from the date of receipt by the district court.

Your Committee has made further technical amendments which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1583-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1583-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 47-84 Health on S.B. No. 2091-84

The purpose of this bill is to appropriate \$200,000 from the general revenues of the State to provide supplemental operating expenses for Hawaii's long-term care homes and to appropriate \$89,000 from the general revenues of the State to provide for repair and maintenance to the Samuel Mahelona Memorial Hospital on Kauai.

The Department of Health submitted testimony in support of the appropriation of \$89,000 for the Samuel Mahelona Memorial Hospital. Such funds, if appropriated, would be designated for the replacement of the hospital incinerator. The existing incinerator requires immediate replacement due to its age and dilapidated condition and it is anticipated that funds would not otherwise be available from hospital operating revenues in FY 1984-1985 to fund such a project.

Your Committee has amended the bill by changing the type of care homes receiving an appropriation from long-term care homes to residential care homes.

Presently, residential care homes receive less financial assistance from the State than long-term care homes. It is the intent of your Committee that this appropriation be made to residential care homes to supplement the assistance made to them by the State.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2091-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2091-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 48-84 Health on S.B. No. 2230-84

The purpose of this bill is to extend the sunset provision of section 39A-52, Hawaii Revised Statutes, from June 30, 1986 to June 30, 1999.

The issuance of special purpose revenue bonds has been of substantial benefit to Hawaii's residents and not-for-profit health care institutions by providing significant cost savings. Interest paid toward financing necessary to provide health care facilities continues to be a major factor in the cost of providing health care to the general public. The cost of such interest is far less when tax exempt bonds are issued.

The Hospital Association of Hawaii submitted favorable testimony that it is in the public interest as well as the interests of health care cost containment to continue the issuance of special purpose revenue bonds. Recently, bonds have frequently been issued with floating interest rates to take advantage of current

low rates with an option to convert to a fixed rate. In the event the sunset provision is not extended, it would not be possible to convert a floating rate bond to a fixed rate and the issue would be subject to the prevailing rate.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2230-84 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. 49-84 Health on S.B. No. 1514-84

The purpose of this bill is to allow collection agencies under contract with the Department of Health to collect moneys owed for services rendered under the state comprehensive emergency medical services system to retain a percentage of the money that they collect as their fee for services.

Presently, collection agencies which collect moneys for accounts written off as bad debts, are paid by the department only after the total sum collected is deposited into the State general fund.

This bill would eliminate needless administrative costs and allow more efficient administration of the collection of emergency ambulance services accounts receivables.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1514-84 and recommends it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 50-84 Tourism on S.B. No. 1600-84

The purpose of this bill is to enable the various counties to provide lifeguard services in those state parks identified as being in need of lifesaving services. The bill also provides for an appropriation of state general funds to pay for these lifeguard services.

Your Committee feels that the State should provide lifesaving services in those state parks that are used heavily by the public and are in need of lifesaving services.

The Hawaii Medical Association and the Department of Parks and Recreation, City and County of Honolulu testified that few fatalities occur at beaches where lifeguards are stationed on duty.

Presently, the various counties already provide lifeguard services at the county beach parks. These lifeguard services are similar to other lifesaving or life protecting services carried out by the county police and fire departments.

Your Committee believes that the counties should be responsible for such lifesaving services and since the counties already provide lifeguard services, it would be advantageous to keep all lifeguard services with the counties.

While your Committee finds that there is need to provide lifesaving services, no dollar amount is recommended, pending the availability of funds for fiscal year 1984-85.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1600-84 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. 51-84 Health on S.B. No. 2229-84

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds, in the amounts of \$5,000,000 and \$3,000,000 respectively, for financing and refinancing equipment at Queen's Medical Center and Wahiawa General Hospital.

Your Committee heard favorable testimony from Queen's Medical Center and the Hospital Association of Hawaii, and finds that this measure is in the public interest and for the public health, safety, and general welfare.

Your Committee has amended the bill by adding an authorization of \$2,000,000 for G.N. Wilcox Memorial Hospital for the same purposes, and by adding a new Section 4 providing for the refunding of special purpose revenue bonds.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2229-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2229-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 52-84 Health on S.B. No. 2032-84

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds in the sum of \$3,000,000 to finance improvements and secure refinancing for the Pohai Nani Good Samaritan Kauhale health care facility.

Your Committee finds that in 1981 a similar bond issue financially assisted the operation of Pohai Nani and the savings obtained helped keep the expected annual rate increases down for the residents. The proposed bond issue would have a similar cost saving effect and this savings would be passed directly to the facilities' residents.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2032-84 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. 53-84 Government Operations and County Relations on S.B. No. 2209-84

The purpose of this bill is to amend Chapter 42, Hawaii Revised Statutes, the statute implementing Article VII, Section 4 of the State Constitution which prohibits the grant of public money or property except pursuant to standards provided by law.

The more significant changes proposed by the bill include redefining certain terms used in Chapter 42; requiring state agencies to prepare specifications for purchases of service and to solicit proposals from potential providers; prohibiting the appropriation of funds for any funding request which has not received appropriate review by state agencies; allowing funds for purchases of service to be included in the executive or judiciary budget without naming the specific providers; deleting the requirement for the Director of Finance and Administrative Director of the Courts to adopt rules to ensure the fair and uniform allotment of appropriations; deleting the requirement for the Director to develop contract forms and allowing each agency to determine the specific contract form to be used; deleting the requirement for private agencies to obtain signed waivers from participants in their programs holding the State harmless from liability; allowing state agencies to shift funds for purchases of service if the originally intended providers become ineligible or become unwilling, unable or unqualified to perform; and allowing federal-aid funds to be expended in accordance with federal appropriations being made.

In reviewing the various changes proposed, your Committee takes note of the Legislative Auditor's 1984 evaluation of the implementation of Chapter 42, the auditor's recommendations, and the conclusion that implementation of Chapter 42 has improved. With the improvements made and this being only the second budget cycle that Chapter 42 has been applied, your Committee believes that no major change should be made to the basic framework of the law.

Your Committee notes that the bill incorporates a number of the changes recommended by the administration to amend Chapter 42. In addition, your Committee takes note of the recommendations which have been made by representatives of the private agencies in their analysis of Chapter 42 and the proposed amendments.

Your Committee agrees that numerous changes proposed by the bill would clarify certain aspects of Chapter 42, and further facilitate its implementation. After reviewing each proposed change, your Committee has amended the bill as follows:

1. The definition of "purchase of service" has been amended to delete the exemption of individuals performing professional services, and a definition of "proposal" has been added.
2. The requirement to hold at least one public hearing on specifications for purchases of service has been deleted as being unwieldy.
3. In those situations where potential providers of purchases of service cannot be identified after solicitation for services has been made, the agencies are allowed to budget for the services with information on the types of services solicited and their costs.
4. The present procedure is retained to have the respective directors receive and route all requests and proposals to the various agencies for review.
5. The executive budget and judiciary budget shall include the names of providers for purchases of service which are recommended for funding. (This can be done by listing the recommended providers, the services to be provided, and their costs in the narrative of the program and financial plan.) In addition, the reports on requests and proposals not recommended for funding shall be submitted at the same time as the budgets.
6. The Director of Finance continues to be responsible for developing contract forms.

Your Committee further 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. 2209-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2209-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Machida, Abercrombie, Fernandes Salling and Hagino.

SCRep. 54-84 Government Operations and County Relations on S.B. No. 1668-84.

The purpose of this bill is to clarify an ambiguity in the law as to whether or not a vehicle is considered abandoned.

Presently, a vehicle left unattended for a continuous period of more than twenty-four hours and which is unlawfully on a public highway, other public property or private property, is considered to be abandoned.

The term "left unattended", however, has been construed by the courts to mean that if a chalk mark is erased or the vehicle has been moved an inch, then the vehicle is not considered abandoned. Therefore, persons can effectively circumvent the law by erasing chalk marks, or moving the vehicle a few inches.

This bill would specify that a vehicle without movement of at least fifty feet for a period of more than four calendar days would be considered abandoned. In other words a vehicle parked for a period of more than four days would be considered abandoned.

Your Committee received testimony from Waikiki Improvement Association, Inc., that the proposed four day period would create additional problems with persons who would use parking spaces for four days for advertising purposes. Your Committee notes that the counties also have ordinances which conflict with the present State law such that it is possible for a person to violate the ordinance without violating the law. In such a case the State law would control and the person would not be violating any law.

Your Committee, therefore, amended the bill by reinstating the twenty-four

hour provision in lieu of the four day provision and by providing that the definition of "abandoned" would control only in the absence of a county ordinance.

Your Committee also amended the bill by inserting a new section 2, the body of which comes from S.B. No. 1678-84 which also relates to abandoned vehicles. This new section 2 changes the penalty for violating chapter 290 by changing the fine from "not less than \$50 nor more than \$500" to \$500 or imprisonment for thirty days or both.

Your Committee accordingly renumbered old section 2 and 3 to section 3 and 4.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1668-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1668-84, S.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee except Senators Machida, Fernandes Salling and Hagino.

SCRep. 55-84 Health on S.B. No. 2241-84

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds in the amount of \$4,000,000 to assist Kuakini Medical Center with expansion of its acute medical and surgical bed capacity in the Hale Pulama Mau and renovation of Hale Kuakini's third floor.

Your Committee heard favorable testimony from the Hospital Association of Hawaii and finds that Kuakini Medical Center is a vital contributor to health and medical education in Hawaii as well as a leader in serving the medical needs of our senior citizens, and that this measure will result in considerable savings to both the government and private consumers.

Your Committee has amended the bill by adding the words "or refinancing" after the word "financing" on line 10, page 1, in order to provide the option of either borrowing through floating the bonds, or first going into the capital market for a smaller amount for the smaller project to be followed by issuance of the revenue bonds for the total amount to pay off the original loan and consolidate the two projects into one revenue bond. Your Committee has also amended the bill by increasing the amounts specified in items 1 and 2 from \$1,650,000 and \$2,350,000 to \$2,000,000 and \$3,000,000 respectively.

Your Committee has further amended the bill by adding a new Section 4 providing for refunding special purpose revenue bonds.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2241-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2241-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 56-84 Health on S.B. No. 2052-84

The purpose of this bill is to provide funds to allow the emergency room at the Waianae Coast Comprehensive Health Center to remain open around the clock.

Currently, the emergency room is open from 8:00 a.m. to midnight, after which emergency patients must go to Honolulu for treatment, a trip of forty minutes by ambulance. Considering the fact that the Center is the only emergency facility available to 35,000 residents of the area and that there are approximately 7,000 emergency encounters there each year, your Committee finds that extending the services to the late night and early morning hours is in the public interest and for the public health, safety, and general welfare.

Your Committee heard favorable testimony from the Center, the City and County of Honolulu Department of Health, the Waianae Valley Homestead Community Association, and several churches and private citizens in the area.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2052-84 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. 57-84 Health on S.B. No. 1843-84

The purpose of this bill is to make an appropriation of \$2,742,413 to purchase equipment for the new Hilo Hospital acute care facility.

The new acute facility at Hilo Hospital was originally planned for completion in December, 1984. Accordingly, a request for \$2,742,413 was included in the administration's 1985 supplemental budget submission. However, the completion date is now six months ahead of schedule, and based on the supplemental request, there will be a delay in purchasing the equipment. This will mean that the new hospital will stand vacant while the equipment is put to bid, purchased, delivered and installed in fiscal year 1985. Not only will this mean that a facility will not be used, the warranty on the facility and built in fixtures may be affected.

This bill would allow for the commencement of the bid, purchase, delivery and installation of the equipment needed for this facility in fiscal year 1984.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1843-84 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. 58-84 Health on S.B. No. 2189-84

The purpose of this bill is to make an appropriation of \$225,000 to study the delivery of hospital services for the people of Honokaa, Ka'u and Kohala and \$48,000 to purchase a new ambulance for Honokaa Hospital.

The deputy director for County and State hospitals presented testimony stating that the study will be completed by September 30, 1984, and shall include, but not be limited to, plans for converting Honokaa, Ka'u and Kohala Hospitals to free-standing long-term care facilities and free-standing emergency care clinics. Further, the conversion plans shall include an assessment of whether the present facilities meet the standards for a free-standing facility and a free-standing emergency care clinic and an identification of the renovations, including estimated costs, required to bring the hospitals up to such standards.

Further testimony by the deputy director indicates that the ambulance presently being used at Honokaa Hospital was purchased in 1976 and has registered in excess of 91,000 miles. For fiscal year 1982-83, there were 262 responses by the ambulance, and for the present fiscal year, the total has been 203 ambulance responses. The Honokaa ambulance covers the area from Waimea to Laupahoehoe with a population of approximately 13,000.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2189-84 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. 59-84 Health on S.B. No. 2236-84

The purpose of this bill is to provide an appropriation of \$29,000 for planning of the Community Mental Health System of the Department of Health.

Your Committee heard favorable testimony from the Department of Health, the Mental Health Association in Hawaii, the Hawaii State Mental Health Advisory Council, the Hawaii Nurses Association, and the Hawaii Chapter of the National Association of Social Workers, and finds that this measure represents a commitment to the development of a balanced mental health service system for Hawaii which is in the public's interest and for the public health, safety, and general welfare.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2236-84 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. 60-84 Judiciary on S.B. No. 1670-84

The purpose of this bill is to authorize the appointment and payment of interpreters and intermediaries for the hearing-impaired to insure their participation in and receipt of benefits from state legislative, judicial, and administrative proceedings, programs, hearings, meetings, and other activities. It establishes the criteria for such interpreters and intermediaries and the determination of their compensation, requires a written waiver if the person declines the right to an interpreter, and assures effective communication by mandating that the interpreter be in the person's full view. It also authorizes visual recording of the proceedings.

Your Committee finds that the hearing-impaired are too often intentionally or unintentionally isolated and treated as invisible outcasts in a society in which verbal communication predominates daily life. Equal opportunities to fully and actively participate in and enjoy the benefits of governmental activities must be extended to them.

State agencies which receive federal funds are already required by federal law to provide such interpreters. This bill would allow the hearing-impaired to request an interpreter for all agency proceedings and activities as well as all legislative proceedings and activities.

Your Committee amended the bill to limit the circumstances in which a hearing-impaired person can request an interpreter to those where the person is a party or a witness in a meeting, as defined in the bill. It specified that the Division of Vocational Rehabilitation, Department of Social Services and Housing, shall have the authority to approve all requests for interpreters. The bill was further amended to delete reference to the timeliness of a request and instead empowered the Director of the Department of Social Services and Housing to adopt rules necessary for the efficient administration of the program. Finally, the bill was amended to grant the appropriate appointing authority the discretion to appoint and pay for an intermediary, and to exclude the provision of an interpreter and intermediary in county agency and legislative meetings.

Your Committee also made technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1670-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1670-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Holt, Kuroda and A. Kobayashi.

SCRep. 61-84 Judiciary on S.B. No. 1736-84

The purpose of this bill is to establish a judicial salary commission to review and recommend salaries for justices, judges, and appointed judiciary administrative officers. The commission shall report its recommendations to the Legislature every two years.

Article V, Section 3, Paragraph 7 of the State Constitution provides for a judicial salary commission to review and recommend salaries for justice and judges of all state courts. The 1978 Constitutional Conventional Judiciary Committee, Standing Committee Report No. 52, intended that "the legislature... [further] define the commission". Proceedings of the Constitutional Convention of Hawaii of 1978, at p. 623. The bill specifies the composition and length of terms of the members of the commission.

Your Committee amended the bill to limit the commission's authority to review and recommend salaries for justices and judges only. The State Constitution does not provide that the Commission also review and recommend salaries for appointed judiciary administrative officers. It also deleted the provisions that

1) at the next regular session of the Legislature after the recommendations are submitted, the salary amounts recommended will be made part of the budget proposed by the Chief Justice; and 2) the salary amounts recommended will control over any other inconsistent provision.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1736-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1736-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Kuroda, George and A. Kobayashi.

SCRep. 62-84 Judiciary on S.B. No. 2137-84

The purpose of this bill is to allow any party who prevails in a civil action against the State to recover reasonable attorney's fees if the court determines that the agency acted without a reasonable basis in fact or law; it also authorizes the court to withhold such attorney's fees if the court finds the agency's action was substantially justified or other special circumstances exist that would make the award unjust. Attorney's fees awards will be limited to \$25,000, and payable upon a budget request by the agency to the Legislature.

Your Committee finds that this bill would alleviate some of the burden on private parties who, because of financial constraints, may now be reluctant to sue an agency on a legitimate claim against an invalid administrative rule, declaratory ruling, or final order. A comparison of the State's larger legal and financial resources as opposed to those of a private party's may act as a chilling effect on the party's bringing a meritorious suit. This bill recognizes the disparity of resources and encourages private parties to initiate legal action based on legal principles rather than economic factors.

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. 2137-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2137-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Kuroda, George and A. Kobayashi.

SCRep. 63-84 Judiciary on S.B. No. 2141-84

The purpose of this bill is to amend Chapter 843 of the Hawaii Revised Statutes relating to the Hawaii Crime Commission and to allocate \$302,000 for the fiscal year 1984-85 to operate the Commission. These funds will be expended through the office of the lieutenant governor.

The amendments to Chapter 843 can be summarized as follows:

1. The name of the Commission is changed from the Hawaii Crime Commission to the Hawaii Criminal Justice Commission. The proposed name change would better and more accurately reflect the purpose and functions of the Commission. Instead of investigating individual criminal activities, the Commission would be evaluating and reviewing the operations of the criminal justice system.
2. The bill deletes the present section 1 referring to definitions. Under the proposal there is no need for a definition section in the law.
3. The bill provides that the Hawaii Criminal Justice Commission be established within the Office of the Lieutenant Governor for administrative purposes only commencing July 1, 1985 until June 30, 1988. The reason for the selection of July 1, 1985 was to allow the Governor to appoint commissioners who would be confirmed during the 1985 legislative session and would commence their responsibilities at the outset of the fiscal year. A provision is included to allow for the present Commission to serve during the interim period so that the continuity of the Commission is not lost in the reorganization.

4. The bill makes further changes by deleting the term "chairman" and substituting the term "chairperson" which is more appropriate. In addition, the bill deletes the prohibition of the chairman's voting privileges. During the formation of the Crime Commission, the initial chairman was the lieutenant governor. The consensus was, at that time, that he should only be allowed to vote in the event of a tie. However, today the chairman is now a commissioner also. Thus, the chairman should be allowed to vote on all matters.
5. The bill deletes the section relating to committees. This area can be more appropriately covered by the rules and regulations of the Commission.
6. The biggest revision in the law is the change in the functions of the Commission. The bill basically consolidated the numerous and varied functions that existed and focused on two specific yet flexible functions:
 - 1) research, evaluate, and make recommendations regarding the criminal justice system; and
 - 2) develop, recommend, and implement public education programs relating to the criminal justice system.

There is much concern and misconception about the operation of the criminal justice system. The proposed changes would allow the Commission to focus on these concerns and misconceptions and contribute to the improvement and understanding of our system of justice.

The bill retains the provisions dealing with the unauthorized disclosure of confidential information or matter acquired by the Commission. Though the present staff do not intend to gather criminal intelligence information, there is still confidential information gathered during the course of a study. Thus the present statute is necessary to protect against the unauthorized disclosure of that information and the information and matters that have been previously gathered by the Commission staff.

In addition to the above amendments relating to Chapter 843 of the Hawaii Revised Statutes, Section 103-3 of the Hawaii Revised Statutes was amended to change the wording "Hawaii Crime Commission" to "Hawaii Criminal Justice Commission."

Your Committee recognizes the need for such a Commission which both studies problem areas within the criminal justice system. The Commission's independent status and citizen commissioners allow it to address areas of concern to our community and to provide objective input for the benefit of the citizenry.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2141-84 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 Senators Cobb, Hagino, Holt and Kuroda.

SCRep. 64-84 Transportation on S.B. No. 1706-84

The purposes of this bill are to expand the definition of "special facilities", change the maximum amount of special facility revenue bonds that can be issued, and extend the issuance date from June 30, 1983 to June 30, 1987.

Currently, the definition of "special facility" in Section 266-51, Hawaii Revised Statutes, is not clear as to whether the processing and canning of fish and fish products falls within the definition. This bill would clarify the statute by specifically including such activities within the scope of the definition. The bill will also change the amount of bonds that can be issued and extend the issuance date.

Your Committee has amended the bill to include "marine" operations within the definitions of "special facility" to be consistent with section 171-59, Hawaii Revised Statutes relating to the disposition of public lands.

Your Committee has further amended the bill by retaining the current amount

of special facility revenue bonds that can be issued and by making technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1706-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1706-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Chang and Kuroda.

SCRep. 65-84 (Majority) Transportation on S.B. No. 1638-84

The purpose of this bill is to require a test of every driver involved in a motor vehicle accident to determine if the driver was under the influence of intoxicating liquor or drugs.

Presently, it is not mandatory that police officers examine drivers involved in motor vehicle accidents to determine if any driver was under the influence of intoxicating liquor or drugs at the time of the accident. This bill requires that police officers examine every driver involved in any motor vehicle accident to determine if the drivers were under the influence of intoxicating liquor or drugs.

Your Committee heard favorable testimony from the Department of Transportation and the Department of Prosecuting Attorney, City and County of Honolulu, regarding how the bill will assist the State and the Police Department in monitoring and determining the causes of motor vehicle accidents.

Your Committee finds that the requirement of testing all drivers in all motor vehicle accidents to determine driver intoxication may be too burdensome on police officers and may in effect defeat the purpose of the bill by requiring testing when none is needed.

Therefore, your Committee has amended the bill to require examinations for driver intoxication in only those accidents where the driver is cited by the police officer for a violation of a law or ordinance. This amendment not only satisfies the original intent of the bill but also realistically considers cost factors and administrative concerns.

Your Committee has further amended the bill as follows:

1. Substituted section 291-4 for section 291-5 to define "under the influence of intoxicating liquor."
2. Defined "under the influence of drugs" to be as provided in section 291-7.
3. Clarified that Part VII of Chapter 286 is applicable to the the bill.
4. Clarified the intent of the bill by making language and technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1638-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1638-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.
Senator Chang did not concur.

SCRep. 66-84 Transportation on S.B. No. 535

The purpose of this bill is to provide State weight tax and registration fee exemptions for certain motor vehicles which have been constructed or modified to enable a handicapped person to operate or use the vehicle.

Currently, Chapter 249, Hawaii Revised Statutes, limits such exemptions to disabled veterans. This bill provides a similar exemption to handicapped persons with mobility impairments.

Your Committee has amended the bill by updating the effective date from July 1, 1983 to July 1, 1984, and by making technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 535, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 67-84 Judiciary on S.B. No. 2031-84

The purpose of this bill is to 1) increase the compensation amounts of court-appointed counsel for indigents, 2) delete the present requirement that excess payments may be made by an appointing judge for certain cases when extended or complex representation for good cause is shown on the record, and 3) specify that in situations involving multi-count indictments, the maximum fee for the court-appointed counsel shall be the sum of the maximum fees relating to each count against the person charged.

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. Appeals to the supreme court or intermediate appellate court - from \$1,500 to \$3,000

Your Committee received testimony stating that because the language of the present statute is unclear regarding the maximum fees which can be paid where there are multiple counts, the courts may have varied in the fees awarded for similar services. Testimony also pointed out that the present statute does not address the following situations: 1) whether court-appointed attorneys can submit interim bills in cases that take a long time, 2) whether court-appointed attorneys should be paid for time spent when they later have to withdraw from a case, or 3) the time period in which the State must pay the bills submitted by court-appointed attorneys. It was felt that there may be inconsistent practices by the courts and the State in each of the areas.

Your Committee recognizes that the extent and nature of the alleged problems remains unclear at this time. There was insufficient time for the Committee to investigate and resolve these matters. However, rather than foreclose further consideration of these matters, your Committee has decided to amend the bill to incorporate some of the suggestions received from the testimony and to refer this matter to the Committee on Ways and Means for a more thorough discussion.

Your Committee has amended this bill to: 1) allow court-appointed attorneys to submit quarterly bills, 2) entitle court-appointed attorneys who withdraw from the cases with good cause compensation for the work already performed, 3) entitle substituted court-appointed attorneys to the full statutory fees, and 4) require payment of court-appointed attorneys from a specified fund within thirty days of approval of his or her fee by the court.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2031-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S. B. No. 2031-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hagino, Holt, Kuroda and A. Kobayashi.

SCRep. 68-84 Judiciary on S.B. No. 1730-84

The purpose of this bill is to extend worker's compensation eligibility to volunteer deputy sheriffs who are injured in performing their duties for the State. Presently, only public board members, reserve police officers, volunteer firemen, and volunteer fish and game wardens are covered. By assisting the State without payment for their services, volunteer deputy sheriffs also serve the same valuable function as those specified in the present law. Your Committee finds that the same benefits should accrue to them.

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. 1730-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1730-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 69-84 Judiciary on S.B. No. 1947-84

The purpose of this bill is to codify the existing statewide program which provides information, assistance, and support services to victims of and witnesses to crime. This victim-witness assistance program shall be administered and directed by the Attorney General's office, as is the case now. The Office of the Prosecuting Attorney in each county receiving program funds shall design and implement its respective program under the Attorney General's guidelines.

Your Committee recognizes that the cooperation of victims and witnesses is essential to the effective prosecution of criminal activity in this State. To this end, it is necessary to enact legislation to ensure the continued existence of the victim-witness assistance program.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1947-84 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 Senators Hagino and Kuroda.

SCRep. 70-84 Judiciary on S.B. No. 2142-84

The purpose of this bill is to appropriate \$130,000 for the fiscal year 1984-85 to establish a pre-release furlough program for females incarcerated in Hawaii's correctional facilities. This sum will be administered by the Department of Social Services and Housing. The program site will be Liliha House I, located near downtown Honolulu. The pre-release furlough program will serve two purposes: 1) to assist female inmates in preparing for parole and to ease the transition from life in an institution to life in the community; and 2) to reduce the significant overcrowding problem in the State correctional facilities.

Testimony from the John Howard Association of Hawaii indicated that a similar pre-release furlough program for male inmates had operated successfully since 1975 until it was recently defunded because of budgetary cutbacks. Due to the severe overcrowding problem and the lack of programs at the Hale No Na Wahine facility, which houses female inmates, priority should be given to funding for a community-based residential program for female offenders.

Your Committee recognizes that the pre-release furlough program for female inmates is a necessary program which will benefit the women involved and help to alleviate the overcrowding problem in Hawaii's correctional facilities.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2142-84 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 Senators Hagino, Holt and Kuroda.

SCRep. 71-84 Judiciary on S.B. No. 1946-84

The purpose of this bill is to allocate continued funding for the aid to victims coordinator programs for the Fiscal year 1984-85 and to require annual reporting of: 1) program expenditures, and 2) steps taken to secure county funding. The funding allocation is as follows:

1. Hawaii County.....\$ 90,000
2. Kauai County..... 75,000
3. Maui County..... 75,000
4. City and County of Honolulu..... 150,000

These funds shall be expended by the Attorney General's office.

Your Committee amended Section 3 of the bill to require that each county program shall submit an annual report to the Attorney General's office rather than to the Legislature. The Attorney General's office shall then analyze and compile these reports and submit an annual report to the Legislature. Your Committee also made a technical, nonsubstantive amendment.

Your Committee recognizes the critical work which the aid to victims coordinator programs have accomplished this past fiscal year in facilitating the effective prosecution of criminal activity and supports the legislation for continued funding.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1946-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1946-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 72-84 (Majority) Consumer Protection and Commerce on S.B. No. 2149-84

The purpose of this bill was to provide tax relief to registered travel agents and outside sales representatives.

Currently, travel agents and outside sales representatives are assessed a general excise tax of four per cent on their commissions, the same as sales representatives under section 237-13(5) Hawaii Revised Statutes. This bill statutorily fixes the four per cent tax and also provides that commissions derived from selling air fares shall be deducted from the tax base and assessed at the reduced rate of one and one-half per cent currently enjoyed by insurance solicitors and agents under section 237-13(7) Hawaii Revised Statutes. The rationale behind lowering the tax in this specific situation is that travel agents are prohibited by federal law from passing on the general excise tax on air fare commissions to the customer.

Your Committee heard conflicting testimony from the Department of Taxation, the Hawaii Business League, and the American Society of Travel Agents, and is mindful of the fact that the Tax Review Commission is currently studying Hawaii's tax structure. Your Committee is also aware that the State is attempting to litigate a change in the tax base for travel agents to include all gross receipts rather than commissions alone. Normally, a bill such as this would be held pending completion of the tax study, but the implications of the State's litigation, should the State prevail, is that the real income of travel agents will drop at least forty per cent, effectively putting them out of business.

Your Committee considers this to be an emergency situation and is acting accordingly.

Your Committee also wishes to note that this legislation is intended to take effect upon its approval and will not directly affect the above mentioned litigation. This bill should, however, prevent a reoccurrence of similar litigation.

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. 2149-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2149-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.
Senator Kawasaki did not concur.

SCRep. 73-84 Consumer Protection and Commerce on S.B. No. 1551-84

The purpose of this bill is to amend twenty-six chapters of the Hawaii Revised Statutes pertaining to boards and commissions by separating application, examination, and license fees, where fees have not been separated; deleting from the statutes all wording specifying the amount of fees; and providing

that all fees are to be established by rule by the Director of Commerce and Consumer Affairs. This bill further proposes to delete the requirements that optometry licensees be U.S. citizens and that the Board of Optometry submit an annual report to the Governor.

Your Committee finds that Act 92, Session Laws of Hawaii 1980, authorized the Director of Commerce and Consumer Affairs to increase or decrease the board and commission fees to maintain a reasonable relation between the revenues derived from fees and the cost or fair value of services rendered and to establish separate application, examination, and license fees.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs that at present, some of the boards have separate application, examination, and license fees, while many do not. This bill proposes to fulfill the statutory requirement. The Department further testified that they adopted the rules on fee changes on September 1, 1983 which are intended to establish a reasonable relation between revenues and expenditures. A memorandum received from the department indicated that the revenues for fiscal year 1982-1983 totalled \$588,979 while the expenditures for the same period totalled \$1,259,396, attesting to the need for revised fees. This bill would amend the various sections of the board and commission statutes affected to conform to the action taken by the department on fees.

Your Committee heard further testimony from the Department of Commerce and Consumer Affairs that the Board of Optometry has not been enforcing the United States citizenship requirement since 1974 when the Attorney General advised the Board of the requirement's unconstitutionality. As to the requirement that the Board of Optometry submit an annual report to the Governor, 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 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. 1551-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1551-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 74-84 Consumer Protection and Commerce on S.B. No. 1541-84

The purpose of this bill is to authorize the Director of the Department of Commerce and Consumer Affairs to appoint a time share administrator and to employ other administrative and clerical assistants as may be necessary for the proper administration of Chapter 514E, Hawaii Revised Statutes.

Currently, there are no positions funded for the administration of this Chapter. This bill deals with this situation.

The Department of Commerce and Consumer Affairs presented testimony that since the time share industry was first regulated in 1980, the Department has had to allocate resources from other programs to provide for the proper administration of the time share statute.

Your Committee finds that in view of the activities of the time sharing industry, an adequate staff is needed to administer the time share program and to implement the provisions of Chapter 514E. However, your Committee notes, with approval, that the hiring of staff will require no additional funds, since funds already allocated for positions not yet filled by the Department will be sufficient.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1541-84 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 Kuroda.

SCRep. 75-84 Health on S.B. No. 1759-84

The purpose of this bill is to establish a full-time position of mental health supervisor III in the Department of Health's Leeward Oahu Mental Health Center.

In 1982, the Mental Health Division expanded its program by contracting with private agencies to provide community mental health services. The utilization of private contractors has greatly increased the administrative and supervisory workload of the Central and Leeward Mental Health Center, such that the planned merger of the administration of the Central and Leeward Mental Health Centers is no longer feasible.

This bill would create a new position of Chief of the Leeward Mental Health Center, and divide the administrative responsibilities between the Central and Leeward Mental Health Chiefs. The division of the administration responsibilities between the two mental health centers would alleviate the present administrative overload.

The creation of the new position will not require any additional State funds, since the currently State funded Central Oahu Chief's position will be converted to federal funding and the new position funded from existing State funds.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1759-84 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. 76-84 Health on S.B. No. 1504-84

The purpose of this bill is to delete the mandatory requirement that the Attorney General represent any person who wants to involuntarily hospitalize a mentally-ill person or a substance abuser.

Present law requires that the Attorney General represent any person who seeks to involuntarily hospitalize another by presenting the case before the Family Courts of the State. Unlike the Legal Aid Society or the Public Defender's Office, there are no requirements, such as a person's income level, for the person to qualify for representation by the Attorney General. The statute contains no provision for nonrepresentation should State-employed doctors disagree with the need for hospitalization. The potential for abuse is high considering the absence of discretionary authority for the Attorney General and the short time period available to investigate a case.

Your Committee heard testimony by the Office of the Attorney General to the effect that while the State admits responsibility for committing the mentally ill, as with many other areas of governmental responsibility and duty, the decision of whether to proceed with commitment proceedings should be made by elected and appointed officials. Presently, in civil commitment cases, the decision to seek hospitalization may be made by a private individual. That decision should not then be given the appearance of State approval by enforcement through the Attorney General's Office. Complications further arise if the person who is the subject of a civil commitment is also criminally prosecuted for dangerous behavior, thereby subjecting the person to two proceedings by two separate government agencies.

Your Committee finds that representation of private individuals by the Attorney General is the exception rather than the rule, and that the expansion of psychiatric facilities and the concurrent increase in civil proceedings make mandatory representation burdensome, impractical, and inappropriate.

Your Committee has amended the bill to:

- (1) Provide that a patient who is under criminal charges but out on bond, bail, supervised release, or his own recognizance need not be returned to the custody of a law enforcement officer;
- (2) Clarify that a non-indigent or an indigent subject of a petition for involuntary hospitalization may contact his or her own attorney; and

(3) Provide that the court may adjourn or continue a hearing if the subject fails to contact an attorney and the court finds that it is in the interest of justice to do so.

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. 1504-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1504-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 77-84 (Majority) Economic Development on S.B. No. 1950-84

The purpose of this bill is to extend the expiration date for issuance of special purpose revenue bonds that assist utilities serving the general public in providing electric energy or gas from June 30, 1984 to December 31, 1991.

Your Committee finds that this bill will permit the Department of Budget and Finance to issue the remaining balance of bonds authorized for assisting Hawaiian Electric Co., Inc., in Act 15, First Special Session Laws of Hawaii 1981, beyond the original lapsing date of June 30, 1984. It will also permit the issuance of refunding special purpose revenue bonds by December 31, 1991.

Your Committee recognizes that the issuance of the remaining balance of special purpose revenue bonds and any refunding special purpose revenue bonds will be subject to prior approval by the Public Utilities Commission, the Governor, and the Department of Budget and Finance.

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

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1950-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1950-84, 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. 78-84 (Majority) Economic Development on S.B. No. 1879-84

The purpose of this bill is to exempt from the general excise tax the gross proceeds arising from shipbuilding and repairs of surface vessels operated for commercial purposes out of any harbor in the State.

The legislature by Act 204, SLH 1971 granted an exemption from the general excise tax, the gross proceeds received from shipbuilding or repair of surface vessels which are federally owned or engaged in interstate or international trade. The exemption was adopted to encourage ship repair activity in Hawaii by allowing such activities to be more price competitive with their mainland counterparts. The imposition of the general excise tax placed Hawaii firms at a disadvantage.

This bill extends the exemption for shipbuilding and ship repairing not only to those vessels which operate interstate or internationally but also to those commercial vessels which operate only within the state. It is the intent of this bill to eliminate the discriminating effect of the general excise tax law on the local operators of commercial vessels.

Your Committee amended the bill by inserting the word "or" instead of "and" in line 8, page 1 (line 9, page 1 of the bill as amended) to obviate the possibility of misconstruing the application of the exemption to mean that such ships must be either federally owned or engaged in interstate commerce and must be operated out of a harbor in the state.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1879-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1879-84, 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. 79-84 (Majority) Economic Development on S.B. No. 1948-84

The purpose of this bill is to extend the expiration date for the Department of Budget and Finance's issuance of special purpose revenue bonds assisting utilities serving the general public from June 30, 1984 to December 31, 1991.

Act 15, First Special Session Laws of Hawaii 1981, authorized the Department of Budget and Finance to issue special purpose revenue bonds not to exceed \$72,252,000 during the period from July 1, 1981 through June 30, 1984 for capital improvement programs of four major utilities. The Act further provided that none of the funds realized is to be used for fossil fuel or nuclear fuel generating units. The entire amount authorized has not been issued and will not be issued by June 30, 1984.

Your Committee finds that extending the time for the issuance of bonds under Act 15 is in the public interest in that it will enhance the ability of the utilities to develop projects utilizing Hawaii's renewable energy resources and thereby reduce the State's dependence upon imported petroleum.

Your Committee amended the bill by making technical nonsubstantive changes to conform the bill to recommended drafting format.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1948-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1948-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.
Senator Kawasaki did not concur.

SCRep. 80-84 (Majority) Economic Development on S.B. No. 1839-84

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 \$12 million for the purpose of assisting Kamakani Ikaika, Inc., a California corporation, or a partnership in which Kamakani Ikaika is a general partner in the generation of new capital for the establishment of a 5 megawatt wind farm and related facilities on the island of Hawaii.

Your Committee finds that wind energy is a renewable source that can reduce the State's dependence on imported petroleum. Currently, Hawaii pays about \$1 billion annually to import oil which supplies over 90 percent of our energy needs.

Wind energy provides a vast potential as an environmentally acceptable means of electrical power generation in the State of Hawaii. Although Hawaii's tradewinds are an excellent source of power, they have been only slightly utilized in the past, providing less than 2 megawatts of energy. The viability of electrical generation from wind turbines is being demonstrated at Kahua Ranch in the North Kohala District of the Big Island, where a total of 3.4 megawatts will be generated when the wind farm is fully operational.

Your Committee has received testimony in support of this bill from the Department of Planning and Economic Development.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1839-84 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 Kuroda.
Senator Kawasaki did not concur.

SCRep. 81-84 (Majority) Economic Development on S.B. No. 1949-84

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds that would be used to refund the

special purpose revenue bonds that were authorized in Act 15, First Special Session Laws of Hawaii 1981 for the purpose of assisting utilities that serve the general public in providing electric energy or gas.

The refunding authorization will enable the Department of Budget and Finance to sell refunding bonds at a lower interest rate than the bonds that were originally issued under Act 15, First Special Session Laws of Hawaii 1981. Savings accruing from these lower interest rates will be passed on to the utilities' ratepayers.

Your Committee recognizes that the issuance of these refunding special purpose revenue bonds will be subject to prior approval by the Public Utilities Commission, the Governor, and that the Department of Budget and Finance must sell these bonds at a time that will not conflict with the issuance of its own bonds.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1949-84 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 Kuroda.
Senator Kawasaki did not concur.

SCRep. 82-84 Economic Development on S.B. No. 1503-84

The purpose of this bill is to clarify the statutory definition of the word "gasohol" as used in the general excise tax law.

Presently, state law defines "gasohol" as a gasoline and alcohol liquid fuel mixture consisting of at least ten per cent ethanol. The Environmental Protection Agency, however, by regulation established the upper limit of "...not more than 10 volume percent." Further, the Bureau of Alcohol, Tobacco and Firearms has permitted ethanol to be denatured to preclude human consumption.

This bill amends Section 237-27.1(b), Hawaii Revised Statutes, by specifying that the ten per cent ethanol is ten volume per cent and that the ethanol includes the denaturant.

Your Committee finds that this bill will clear up any ambiguity between existing statute and rules, regulations and ongoing industry practice and preclude potential litigation.

Your Committee has received testimony in support of the bill from the Board of Agriculture, the Tax Foundation of Hawaii and the Department of Taxation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1503-84 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 Kuroda.

SCRep. 83-84 (Majority) Economic Development on S.B. No. 1888-84

The purpose of this bill is to vest in landowners the ownership of mineral rights where such rights have not been specifically reserved to the State or its predecessors in interest.

Presently, Hawaii pays about \$1 billion annually to import oil which supplies over ninety per cent of our energy needs. Since many factors that influence the supply and price of oil lie beyond our borders and control, it is important that the State encourage the development of alternative energy sources such as geothermal.

Your Committee finds that, under existing law, it is unclear as to who owns geothermal resources found in, on or under privately owned lands where there is no reservation by the State of mineral rights. This uncertainty has impeded the development of geothermal resources as an alternative energy source. By clarifying the issue of ownership, the bill provides to private landowners an incentive for the development of geothermal resources.

Your Committee has amended the bill to clarify its intent and purposes by:

- 1) specifying that mineral rights shall vest in landowners in accordance with the bill.
- 2) eliminating language which is repetitive of the definition of "reserved lands."

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1888-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1888-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Hagino, Chang and Kuroda.
Senator Kawasaki did not concur.

SCRep. 84-84 Economic Development on S.B. No. 1928-84

The purpose of this bill is to acquire the land and water rights at Kawainui Marsh, Oahu at the sum of \$5,730,000 or so much thereof as may be necessary.

Kawainui Marsh is important for its physical, cultural, and natural attributes. The marsh, in its natural state, is currently acting as a living sewage treatment plant, a flood control basin, a groundwater recharge aquifer, a sediment filter, a nutrient recycler, an open space vista, and a buffer protecting coastal communities against erosion and storm damage.

Culturally, Kawainui is the site of two Heiau's and the focus of a rich folklore. The importance of Kawainui in the Hawaiian legends of Oahu is unique.

Kawainui Marsh is also important as an ecological habitat for endangered wildlife. Four endangered water birds are found at the marsh: the Hawaiian Coot, the Hawaiian Gallinule, the Hawaiian Duck, and the Hawaiian Stilt. These endangered waterbirds, along with the more abundant Black-Crowned Night Heron and the introduced Cattle Egret, are the principal waterbird species associated with this largest of Hawaii's freshwater marshes. The Great Frigate bird also regularly visits the marsh.

The Kawainui Marsh is an important and irreplaceable physical, biological and cultural resource which has been degraded by the activities of man, especially the discharge of sewage effluent into the marsh. These discharges, as well as landfill and junk car activities, have compromised what is one of the best native waterbird habitats on Oahu. In order to assure that the marsh resource is not permanently compromised, steps to preserve this area are prudent.

The Kawainui Marsh Resource Management Plan of the Department of Planning and Economic Development would protect these concerns if the land and water rights of Kawainui Marsh are acquired by the state.

Your committee heard testimony in support of this bill from the Department of Planning and Economic Development, a member of the Honolulu City Council, and various conservation and neighborhood organizations.

Your committee amended section 1 of the bill by clarifying that the area known as Kawainui Marsh includes the Maunawili Watershed.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1928-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1928-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 85-84 (Majority) Judiciary on S.B. No. 1760-84

The purpose of this bill is to legalize the playing of bingo to raise funds for charitable, religious, educational, scientific or other public interest needs. Nonprofit organizations licensed by the State will be allowed to hold bingo games and utilize the net proceeds for their operation. The bill also appropriates funds for the Department of Commerce and Consumer Affairs to license nonprofit organizations to operate bingo games.

Briefly, the bill provides for the following:

- (1) the licensing of nonprofit organizations by the Department of Commerce and Consumer Affairs;
- (2) the prohibition against any person running a bingo game receiving compensation greater than a daily amount as yet unspecified;
- (3) the procedures for revocation of licenses;
- (4) the penalty for a violation of the provisions of the bill;
- (5) the authority of the Attorney General, Prosecuting Attorney, or County Attorney to investigate complaints;
- (6) the amendment of Chapters 235 and 237, Hawaii Revised Statutes, to allow for taxing of bingo games; and
- (7) the amendment of Chapter 712, Hawaii Revised Statutes, to decriminalize bingo games operated by a licensed organization.

Due to recent cutbacks in public funding and decreased private funding because of the tighter economic situation, nonprofit organizations now need to look for other funding sources to support themselves and their interests and goals. Your Committee finds that conducting bingo games is an appropriate and much needed enterprise for such nonprofit organizations to enable them to pursue their community interests.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1760-84 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 Senators Holt and Kuroda. Senators George and A. Kobayashi did not concur.

SCRep. 86-84 Higher Education on S.B. No. 1764-84

The purpose of this bill is to extend the tuition waiver program indefinitely for State residents who are members of the National Guard or military reserves and expand the waiver privilege to students pursuing graduate degrees.

Currently the waivers are scheduled to expire June 30, 1984 and are available only to undergraduate students. This bill deletes the expiration date and expands the program to include graduate studies.

Your Committee heard favorable testimony from the Hawaii National Guard, Army Reserve, the Chamber of Commerce of Hawaii, and others stressing the success of the program on enlistments, retention of reservists and guardsmen, and in the development of leadership skills. Testimony from the University of Hawaii included concerns of revenue loss from the waivers and the lack of clear need for extending waivers to graduate students.

Your Committee finds that the tuition waiver program is a vital and productive program and is essential to maintaining a strong, educated and motivated National Guard and reserve.

Your Committee has carefully considered the concerns of the University and has amended the bill to eliminate the expansion of the program to include graduate student tuition waivers.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1764-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1764-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Soares.

SCRep. 87-84 Higher Education on S.B. No. 1765-84

The purpose of this bill is to increase the term of the members of the Board

of Regents to six years and limit their tenure on the board to two consecutive terms totalling twelve years.

A survey of boards and commissions on higher education in various states reflected an average appointed term of six to eight years. In comparison, the Board of Regents in Hawaii are appointed for terms of two and four years, thus identifying this State as one of the very few with terms of less than six years.

Your Committee has received testimony from the current Board of Regents which strongly suggests that while a single four-year term or two consecutive four-year terms as allowed by existing statute is generally considered to be sufficient for an appointee to make a meaningful contribution, this is not true of the two-year term. The regents therefore, recommended that your Committee defer any action on the four-year terms and seriously consider the elimination of the disparity caused by the two-year terms.

Your Committee is in agreement with the recommendations made by the Board of Regents and has amended the bill to provide for four-year terms for all members and retention of the current maximum appointment to two consecutive terms.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1765-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1765-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 88-84 Higher Education on S.B. No. 1785-84

The purpose of this bill is to require the University of Hawaii to transfer a portion of its summer session receipts to the general fund of the State and pay a pro rata share of the administrative expenses incurred because of the session.

Currently under Sections 36-27 and 36-30, Hawaii Revised Statutes, the summer session is exempted from transferring five percent of its receipts to the general fund and is also exempted from paying a pro rata share of the administrative expenses incurred by the summer session. This bill will require the summer session to pay these costs into the general fund.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1785-84 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 Senators Abercrombie and Soares.

SCRep. 89-84 Higher Education on S.B. No. 1844-84

The purpose of this bill is to increase the amount of funds deposited annually into the University of Hawaii Research and Training Revolving Fund and to provide advance funding of \$2,500,000 to meet reimbursable costs incurred in connection with federally financed research and training projects.

The current annual limit on funds deposited into the Fund is \$1,000,000. This measure sets the limit at thirty percent of all income generated from overhead receipts, with the remainder going into the general fund. Translated into dollars, this criterion will annually provide approximately \$2,000,000 to the University in support of various research and training activities which in turn will attract additional extramural funds.

Your committee notes that under the reimbursable cost system the University must first incur expenses and then bill the granting agency. Reimbursement from the federal government takes ten to twelve weeks during which time the University is encumbered with approximately \$2,500,000 in reimbursable expenses. Cash advances for this purpose, however, are statutorily limited (by Section 304-10, HRS) to an aggregate of \$100,000. This bill will correct the problem by increasing the limit on cash advances to a more realistic figure of \$2,500,000.

Your Committee finds that certain provisions in this bill are overly restrictive

and counterproductive to the University's activities and has amended it by 1) removing the Fund from the allotment process of Chapter 37; 2) deleting the lapsing provision; and 3) deleting the provision that interest derived from Fund investments be deposited in the General Fund. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1844-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1844-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Soares.

SCRep. 90-84 Higher Education on S.B. No. 1796-84

The purpose of this bill is to appropriate funds for the continuation of the Pesticide Hazard Assessment Project at the University of Hawaii.

Your Committee finds that continuation of the project is in the public interest in that it provides important community services through its work in conjunction with the Hawaii poison control center and various medical groups. Further, your Committee notes that the project will be eligible for federal funding through the Environmental Protection Agency if the State provides partial funding.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1796-84 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 Senators Abercrombie, Mizuguchi and Soares.

SCRep. 91-84 Higher Education on S.B. No. 1850-84

The purpose of this bill is to appropriate funds for the plans and construction for a school of architecture complex, University of Hawaii at Manoa.

Testimony submitted by the School of Architecture and seven local architecture firms establishes the need for adequate and appropriate facilities which thus far have not been met. The Dean of the School of Architecture also testified that the present facilities have been severely criticized by at least two accreditation committees.

Your Committee has amended the bill by changing the appropriating agency, deleting "University of Hawaii" and substituting therefor "Department of Accounting and General Services."

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1850-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1850-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Soares.

SCRep. 92-84 Higher Education on S.B. No. 1918-84

The purpose of this bill is to provide for a statutory ceiling on the salary of the president of the University of Hawaii and to authorize the Board of Regents to set the salary within the specified ceiling.

Currently the salary of the president is set by law. According to the most recent data compiled by the College and University Personnel Association (CUPA) for 1982-83, the salary of the president of the University of Hawaii is the lowest in the nation among comparable institutions. Testimony by the Board of Regents indicates that this situation has already reduced the number of qualified individuals who might otherwise have applied for the position.

Your Committee agrees with the Board that while the presidency of the University of Hawaii is an attractive opportunity for academic career fulfillment,

removing the existing statutory salary limitation is necessary to recruit and secure a qualified candidate.

Your Committee has amended this bill by including a ceiling of \$95,000 within which the Board may set the president's salary.

Your Committee has deleted section 2 of the bill in order to eliminate redundant language which is already stated in Article X, section 6 of the State Constitution and section 26-52, Hawaii Revised Statutes.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1918-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1918-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Soares.

SCRep. 93-84 Higher Education on S.B. No. 1929-84

The purpose of this bill is to repeal Chapter 319, Hawaii Revised Statutes, which establishes the Hawaii Dental Education Plan.

The Hawaii Dental Education Plan was established in 1976 by Act 132 for the purpose of assisting qualified residents of the State in obtaining a dental education through bilateral contracts with dental schools in those states which do not participate in the Western Interstate Commission on Higher Education's Professional Student Exchange Program. Also included in this Act was an appropriation of \$39,000 to the Department of Budget and Finance to initiate the program.

Your Committee has been informed by the Department of Accounting and General Services that the original appropriation has lapsed into the general fund of the State by Act 6, Special Session Laws of Hawaii 1977. Since that time, no successful efforts have been made for additional funds. In light of this, and the absence of any data to support the continuance of the original intent and purpose of Chapter 319, your Committee finds that there are no compelling reasons to retain this chapter, and thus, recommends its repeal.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1929-84 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. 94-84 Economic Development on S.B. No. 2181-84

The purpose of this bill is to complement proposed federal legislation providing for the establishment of enterprise zones by establishing a central agency to plan, develop, and administer projects designed to stimulate economic growth and employment opportunities in depressed areas of the State to be designated by the federal government as enterprise zones.

Enterprise zone legislation proposed by the federal government would designate a number of enterprise zones annually and would offer regulatory relief and substantial federal tax incentives to businesses operating within the zones, including tax credits for capital investment, income tax credits for employers and employees, elimination of the capital gains taxes, and a 15-year operating loss carry-over.

Your Committee finds that the federal tax and regulatory relief offered in enterprise zones will be an effective tool for economic development, when complemented by similar incentives at the state level. The incentives proposed for federal enterprise zones, however, are not intended to replace traditional capital subsidies or other direct business assistance incentives such as grants, loans, and loan guarantees.

In anticipation of federal enterprise zone legislation, at least 14 other states have passed enterprise-zone-related bills. Hawaii will need to compete with other states for the designation of one or more enterprise zones in the State. It is therefore essential that the State provide such legislation as a first step in

competing for federal designation and the eventual establishment of enterprise zones in Hawaii.

Your Committee heard testimony from the Department of Planning and Economic Development and the Department of Housing and Community Development, City and County of Honolulu in support of the bill.

Your Committee amended the bill to clarify the powers of the governor to set aside public lands within designated enterprise zones in section -2 subsection (b) by deleting the words "Any law to the contrary notwithstanding". This amendment clarifies the requirement that development plans for an enterprise zone be consistent with all ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon within the enterprise zone.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2181-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2181-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 95-84 Higher Education on S.B. No. 1931-84

The purpose of this bill is to appropriate funds for the College of Engineering, University of Hawaii at Manoa, to improve and modernize computer facilities in order to improve computing instruction and insure compliance with accreditation criteria.

This bill provides for an appropriation to be used by the College of Engineering to purchase, operate, and maintain a VAX 11/780 minicomputer and system components and to establish two positions for a facilities manager and an electronics technician.

Your Committee heard favorable testimony from the Dean, College of Engineering, University of Hawaii at Manoa.

Your Committee finds that acquisition by the College of Engineering of the minicomputer and its related components would improve instruction and help to assure accreditation.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1931-84 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. 96-84 Higher Education on S.B. No. 2096-84

The purpose of this bill is to authorize the issuance of general obligation bonds to complete the interior construction of the eighth floor facilities which would be made available by Kuakini Medical Center to the University of Hawaii Medical School for geriatrics research and training activities.

Testimony submitted by the John A. Burns School of Medicine indicates that the eighth floor space will facilitate the medical school involvement with the hospital's geriatric program. The joint program provides research and training that will strengthen the schools' public service in the field of health care to the elderly. The work to be done will fulfill the University's commitments to Kuakini Medical Center which set aside one floor in its new building for the University of Hawaii Medical School.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2096-84 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. 97-84 Higher Education on S.B. No. 2097-84

The purpose of this bill is to authorize the issuance of general obligation bonds for the completion of the new Auto Mechanic Shop and the design for the

renovation of the Auto Body Shop at Honolulu Community College.

Additional funds are needed to complete the construction of the Auto Mechanic Shop at Honolulu Community College due to unforeseen soil conditions at the construction site. A recent analysis of the soil conditions indicates that foundation problems may occur as a result of differential settlement. The additional funds will be used to correct this problem by adding a five-foot surcharge over the site for a nine month period to consolidate the underlying soil. In addition, piles will also be driven to further maintain the frame structure of the building.

Also included in this bill is an appropriation for the design phase of the auto body facilities which will be expanded into the area currently occupied by the auto mechanics program. This appropriation will serve to facilitate the orderly transition of the auto body program into a larger renovated facility upon the transfer of the auto mechanics program into its new facility.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2097-84 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. 98-84 Education on S.B. No. 1795-84

The purpose of this bill is to provide funds in the amount of \$100,000 to assist the Honolulu Community Theatre (HCT) in its effort to complete a building addition to Ruger Theater.

This construction will increase the capacity and utilization of Ruger Theater, which in turn will allow the HCT to continue its leadership in producing plays and musicals and providing opportunities for the public to voluntarily participate in all aspects of the performing arts. Your Committee recognizes the contributions made by HCT to the continued growth of performing arts in the State and the invaluable benefits it provides to the public. While your Committee recognizes that limited State funds have resulted in a stringent fiscal policy, your Committee finds that this bill's appropriation is both reasonable and justified in light of the contributions made by HCT and warrants further consideration from the Committee on Ways and Means.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1795-84 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 Senators Holt and Kuroda.

SCRep. 99-84 Education on S.B. No. 1801-84

The purpose of this bill is to provide a grant-in-aid to the Hawaii Performing Arts Company in the amount of \$150,000 for fiscal year 1984-1985.

The Hawaii Performing Arts Company is a not-for-profit community theatre organization which annually produces professional and quality plays and musicals for the entertainment and enrichment of community audiences and artists.

Your Committee heard favorable testimony from the Hawaii Performing Arts Company, the State Foundation on Culture and the Arts, and the Arts Council of Hawaii supporting the proposed grant-in-aid to the Hawaii Performing Arts Company as an important and necessary measure which will insure the continued existence and growth of the performing arts in our community.

Recent proposed legislation has recognized the importance of promoting the performing arts in Hawaii in much the same manner the State has recognized the importance of acquiring works of art for recognition and display. While your Committee recognizes that limited State funds have resulted in a stringent fiscal policy, your Committee finds that the proposed grant-in-aid is both reasonable and justified in light of the valuable contributions made by the Hawaii Performing Arts Company and the importance of the continued growth of performing arts in the State.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1801-84 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 Senators Aki, Holt and Kuroda.

SCRep. 100-84 Housing and Urban Development on S.B. No. 1809-84

The purpose of this bill is to provide the Hawaii Community Development Authority more flexibility in the issuance of improvement district bonds by permitting 1) additional items as security for bonds, 2) other costs to be paid from the proceeds of the improvement district assessment, and 3) premiums received from the sale of bonds to remain in the bond fund.

Presently, section 206E-6(c) limits the security for improvement district bonds solely to the real properties benefited or improved and the assessments thereon. In addition to the security presently allowed, this bill will allow the Authority to secure such bonds with reserve funds, bond insurance, and other assets deemed necessary to effectuate a favorable bond program.

Further, section 206E-6(e) currently requires that all moneys relating to such bonds be used solely for the principal and interest payments due on the bonds. The proposed revision would permit said moneys to be also utilized to establish a reserve fund and for certain expenses relating to the administration and maintenance of the bond program.

Finally, the existing language in section 206E-6(e) requires that premiums received on the sale of bonds be deposited into the Authority's revolving fund. Under certain bond market conditions, it may be to the Authority's advantage to issue (sell) bonds at a premium to achieve more attractive overall terms. However, at the time of the bond sale, the premium amount may not be "surplus" and should therefore not be taken from the bond fund at that time. The deletion of this requirement relating to any premium realized will provide the Authority with the flexibility to structure the most favorable bond issue.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1809-84 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 Holt.

SCRep. 101-84 Housing and Urban Development on S.B. No. 1925-84

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

Your Committee heard favorable testimonies from Mr. Kent Keith, Director of the Department of Planning and Economic Development, State of Hawaii, Mr. Laurence Capellas, Executive Director of the Hawaii Redevelopment Agency of the County of Hawaii and Mr. Rex D. Johnson, Executive Director of the Hawaii Community Development Authority. Your Committee also received testimony from Mr. Peter Leong, Finance Director of the City and County of Honolulu, expressing some reservations on the bill.

Your Committee recognizes tax increment financing as an innovative financing method used primarily by government redevelopment agencies to finance public improvements in designated urban areas. In concept, the public improvements should enable and encourage new developments by the private sector which will substantially increase the real property assessments and taxes generated from the district. The increased revenues would be earmarked and committed to repay the tax increment bonds issued for the public improvements.

This bill provides the counties with the authorization to undertake a financing program which could be an alternative or supplement to the traditional general obligation bond method of raising capital.

Your Committee emphasizes its accord with the provisions of this bill requiring that the tax increment financing plan and the amount of bonds issued

to implement said plan be approved by the respective county council where the district is located.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1925-84 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 Holt.

SCRep. 102-84 Housing and Urban Development on S.B. No. 1890-84

The purpose of this bill is to extend the expiration date of the authorization for the department of land and natural resources to negotiate and enter into lease agreements with certain south Kona residents and to correct a drafting error in a previous Act.

Act 62, Session Laws of Hawaii 1982, enabled eligible residents of the Milolii-Hoopuloa community to negotiate long-term leases with the department of land and natural resources for parcels upon which the residents' homes are presently located. This bill will extend the expiration date of the authorizing legislation from January 1, 1985 to January 1, 1987, allowing completion of negotiations currently in progress.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1890-84 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 Holt.

SCRep. 103-84 Housing and Urban Development on S.B. No. 2249-84

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to allocate to one or more issuers a bond allocation received as part of the federal Mortgage Subsidy Bond Act of 1980, or as it may be amended by the U.S. Congress.

Although the sunset provision in the Federal law has stopped the issuance of mortgage revenue bonds as of December 31, 1983, it is probable that the U.S. Congress will reenact this legislation in 1984. Should this occur, it would be advantageous for the State to have in place legislation which would allow the Hawaii Housing Authority and counties to proceed immediately with the initiation of their mortgage revenue bond programs.

Your Committee amended the bill to define proportions of the State's total bond allocation to be apportioned among the HHA and the counties. This allocation schedule is identical to that which was established in Act 279, Session Laws of Hawaii, Regular Session of 1982. Since this allocation schedule was successfully implemented during the past two years, there is no compelling reason to change the present method.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 2249-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2249-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 104-84 Housing and Urban Development on S.B. No. 1810-84

The purpose of this bill is to appropriate out of the general revenues of the State \$12,500,000 for fiscal year 1984-85, to be paid into the Hawaii Community Development revolving fund. The proceeds of the fund are to be used for the purposes of chapter 206E, Hawaii Revised Statutes.

The Authority testified that the fund would be used for such purposes as: (1) the implementation of their 10-year buyback option in the sale of reserved housing units; (2) providing moneys for the front end costs of land acquisition and construction of parking garages, which are intended to relieve smaller parcels of land of one of their major development constraints, the provision of on-site parking; and (3) the implementation of the Authority's financing programs.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1810-84 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. 105-84 Housing and Urban Development on S.B. No. 1885-84

The purpose of this bill is to provide native Hawaiian individuals and organizations with the right to sue in the circuit courts of the State regarding the native Hawaiian land trust under Article XII of the State Constitution implementing Section 4 and 5(f) of the Admission Act.

The report of the Federal-State Task Force on the Hawaiian Homes Commission Act, dated August, 1983, recommends that the Legislature enact legislation which would resolve uncertainties regarding the right of native Hawaiians to sue in State courts for breaches of trust in the administration of Hawaiian Home lands. A similar recommendation was made with reference to Congress enacting legislation to enable beneficiaries to sue in Federal court.

Your Committee finds that the State of Hawaii is the ultimate trustee under the Admission Act since the United States granted title to certain public lands and "available lands", under the Hawaiian Homes Commission Act, 1920, as amended, to the State to be held in trust for various purposes. This bill would provide the means and forum for native Hawaiian beneficiaries to resolve disputes regarding these lands with the State.

Your Committee has amended the bill to:

1) Clarify the language of the bill establishing the right of native Hawaiians and native Hawaiian organizations to bring actions regarding the administration of the Hawaiian Homes Commission Act and the land trust established by the Admission Act.

2) Eliminate the detailed definition of "Native Hawaiians" since the term is defined by reference to the Hawaiian Homes Commission Act.

Your Committee further amended the bill by making technical changes of no substantive effect.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1885-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1885-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 106-84 Housing and Urban Development on S.B. No. 2067-84

The purpose of this bill is to appropriate \$4,032,619 to the Department of Hawaiian Home Lands (DHHL) from funds derived from the public land trust established by Section 5(f) of the Act of March 18, 1959 (Public Law 86-3, 73 Stat. 4) for fiscal year 1984-1985.

Presently, the DHHL does not receive appropriations from the State General Fund and must depend upon its special funds to cover administration and operating expenses. By providing an appropriation from the public land trust to cover such expenses, DHHL special funds could be used instead for planning and developing homesteads, constructing on-site and off-site improvements for subdivisions, making loans to homesteaders to build on their land, and providing other direct benefits to native Hawaiians.

A legal concern was raised with respect to how administrative and operating costs of the DHHL are to be financed. The 1978 Constitutional Convention amended Article XI, Section 1 (renumbered Article XII) to delete language which provided "...the legislature may, from time to time, make additional sums available for the purposes of said Act by appropriating the same in the manner provided by law." The following language was substituted for the deleted portion:

"The legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2)

home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands; in furtherance of (1), (2), (3) and (4) herein, by appropriating the same in the manner provided by law."

The provision has been interpreted to mean that the administrative and operating budget of the DHHL should be met through legislative appropriations. Despite the intent and purpose of this 1978 Constitutional amendment, the DHHL has not been successful in obtaining State General Fund appropriations to cover administrative and operating costs and remains dependent upon its special funds.

In 1983, in *Kaniho v. DHHL* the Third Circuit Court, State of Hawaii, ordered the DHHL to seek and obtain legislative appropriations to cover its operating costs. The Court cited the intent of Section 1, Article XII, of the State Constitution, which was to reduce the DHHL's reliance upon leasing its lands for income purposes, and instead, provide lands for native Hawaiians.

Your Committee finds that an appropriation from funds derived from the public land trust is in accordance with the mandate of Article XII, Section 1, of the Constitution of the State and section 5(f) of the Act of March 18, 1959 (Public Law 86-3, 73 Stat. 4).

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 2067-84, 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 Holt.

SCRep. 107-84 Housing and Urban Development on S.B. No. 1718-84

The purpose of this bill is to establish a new housing finance revolving fund to be administered by the Hawaii Housing Authority (HHA).

The Authority testified that under the Authority's Housing Finance Program, HHA has issued mortgage revenue bonds for the Hula Mae program and coordinated the issuance of tax-exempt notes and bonds for the Construction Loan Note Program. The revenues generated by these two programs and any other revenues generated by future financing programs would be deposited into this newly created fund. This revolving fund would be used principally for the purposes of funding the operational expenses and administration of the various housing finance programs and to provide long term and special financing of projects. The establishment of a housing finance revolving fund would relieve the Authority's dwelling unit revolving fund (DURF) of long-term commitments and would make more money available from DURF for short-term loans.

Your Committee amended the bill to clarify the purposes for the establishment of this fund and exempting it from provisions of section 36-21 and 359G-10, Hawaii Revised Statutes.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. 1718-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1718-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 108-84 Education on S.B. No. 1935-84

The purpose of this bill is to extend the job sharing pilot project for librarians for an additional two years.

Act 139, Session Laws of Hawaii 1982, established a voluntary job sharing pilot project for librarians within the public library system. This bill would extend the pilot program for fiscal years 1984-1985 and 1985-1986.

Your Committee received numerous favorable testimonies in favor of the bill. Further, your Committee also heard testimony that the pilot project be expanded to include library assistants and library technicians. Your Committee notes that

the Legislative Auditor in Report No. 84-15, February 1984 recommended that "job sharing be allowed on a permanent basis in the public library system and that the job sharing opportunities be extended beyond public librarians to library technicians, library assistants, and other library personnel."

Your Committee accordingly amended the bill to include library assistants and library technicians.

Your Committee also amended the bill by making a technical, non-substantive change.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1935-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1935-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Kuroda.

SCRep. 109-84 Human Resources on S.B. No. 1526-84

The purpose of this bill is to authorize the Hawaii Career Information Delivery System, better known as Career Kokua, to share occupational and career information pertaining to Hawaii with other information systems, states, counties, territories, and private entities on a cost reimbursement basis.

Currently, approximately \$48,000 is payable to the program from the Pacific Occupational Information project, other counties, and private agencies. Career Kokua, however, lacks statutory authority to receive and expend outside funds. This bill gives Career Kokua the requisite authority in the form of a special fund established for that purpose.

Your Committee heard favorable testimonies from the Director of Labor and Industrial Relations, the Executive Director of the Hawaii State Occupational Information Coordinating Committee, and the Executive Secretary of the Commission on Manpower and Full Employment, and finds that this measure will enhance Hawaii's leadership role in the Pacific and elsewhere and will enable Career Kokua to benefit from its own activities.

Your Committee has amended the bill by providing that the special fund established by Section 3 of the bill shall be temporary, from July 1, 1984 to June 30, 1987. The bill also requires the Department to report to the Legislature during the Regular Session of 1987 as to whether the temporary special fund should be continued or lapsed altogether.

Your Committee has further amended the bill 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. 1526-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1526-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 110-84 Human Resources on S.B. No. 2240-84

The purpose of this bill is to require, for employee-beneficiaries who elect to participate in health benefits plans of an employee organization, monthly contributions by the board of trustees of the Hawaii Public Employees Health Fund toward the purchase of such employee organization health benefits plans.

Your Committee received favorable testimony from the Hawaii State Teachers Association and the Administrator of the Hawaii Public Employees Health Fund. Your Committee finds that the effect of the bill is to provide employees of the State and counties with a variety of health benefits plans from which to choose and enables employees to participate in health benefits plans of employees organizations with the benefit of contributions from the Hawaii Public Employees Health Fund.

Your Committee has amended the bill to:

1) Eliminate the words "to the fund" in paragraph (2) to clarify that the required contribution is not to be made to the Public Employees Health Fund.

2) Substitute "board of trustees" for "board" where that word appeared in the bill as introduced.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2240-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2240-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 111-84 (Majority) Human Resources on S.B. No. 1522-84

The purpose of this bill is to deny unemployment insurance benefits to (1) all non-professional employees of educational institutions between successive academic years or terms, or during holiday or vacation periods; (2) to professional employees during holiday or vacation periods; and (3) to all employees of governmental educational service agencies between successive academic years or terms or during holiday or vacation periods, if the employees have reasonable assurance of work in the second year or term or after such holiday or vacation periods.

The present law requires the State to deny benefits between academic years or terms only to professional employees working in instructional, research, and principal administrative capacities if they have a reasonable assurance of returning to work in the next academic year or term.

Your Committee received testimony from the Department of Labor and Industrial Relations that denial of benefits to non-professional employees of education institutions is required for conformity with federal statute and to avoid loss of the tax credit and the administrative grant to administer the program.

Your Committee has amended the bill by deleting the changes made to section 383-29(a)(5)(C) on page 4, lines 10-13 of the bill as introduced which would have removed the fourteen weeks of employment requirement to establish eligibility for benefits. The testimony submitted by the Department of Labor and Industrial Relations stated that the change to that section was made in error and should be deleted. Your Committee has further amended the bill 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. 1522-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1522-84, 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. 112-84 Human Resources on S.B. No. 2182-84

The purpose of this bill is to amend section 88-107, Hawaii Revised Statutes, to clarify the allocation of earnings of the Employees' Retirement System.

Existing law provides that the Employees' Retirement System can only retain 7% of its investment earnings. Any earnings in excess of 7% is credited to the employer's contribution to the retirement system. The bill specifies how the income retained by the system would be credited. At the same time, the amount of interest credited to the post retirement fund but not paid to members would increase from 4 1/2% to 7% and reduce the unfunded liability in the post retirement fund.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2182-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2182-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 113-84 Human Resources on S.B. No. 1691-84

The purpose of this bill is to establish a children's trust fund to be used to fund community based projects which are designed to reduce the incidence of child abuse or neglect or family violence.

The funding mechanism provided for in this bill is the use of individual income tax returns through which taxpayers may designate \$10 donations to the children's trust fund from refunds due the taxpayers. While your Committee has some reservations that the use of the income tax check-off would invite many other worthwhile causes to press for the same treatment, thereby complicating tax administration, it has left intact the original funding mechanism so that it can be further discussed and considered in the Legislature.

Your Committee has amended the bill as follows:

1. The advisory council has been changed to a policy making council which shall make determinations as to which projects shall receive grants.
2. References to the specific foundation and the specific foundation trustee to manage the trust fund have been deleted. The council is provided with the authority to appoint the trustee. In this way, the council can choose to work through the Hawaiian Foundation and its trustee or it can make other arrangements.
3. Various parts of the bill have been amended to conform to the two aforementioned changes.

Your Committee has further amended the bill 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. 1691-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1691-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 114-84 Human Resources on S.B. No. 2183-84

The purpose of this bill is to prevent members of the Employees' Retirement System from terminating employment for the sole purpose of withdrawing their contributions.

Your Committee heard testimony from the Secretary of the Employees' Retirement System to the effect that, in the opinion of the Attorney General, the present law does not prevent such abuse of the System. A member loses credited service, but if the member returns to service and continues employment for at least five years, the member at the point of retirement, may purchase the service in a lump sum and select an option that would require the System to refund a portion or all of the member's contributions. This measure will correct this situation and protect the State from the higher costs engendered by this kind of abuse.

Your Committee has amended the bill 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. 2183-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2183-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 115-84 Human Resources on S.B. No. 2125-84

The purpose of this bill is to provide financial relief to State and County retirees in order to counter the erosion of the purchasing power of their pensions due to inflation and the inadequacy of the present post-retirement and cost-of-living bonus provisions in the law.

Post-retirement was initiated in 1961 and increased in 1970, and the cost-of-living bonus was established effective January 1, 1966 and increased several times thereafter. The process of legislating these retirement increases, however, is costly and time-consuming, and your Committee finds that comprehensive changes are needed to expedite this process.

This bill provides a bonus of \$1.50 a month for each year of credited service for persons retired after June 30, 1970 and before July 1, 1975. It also provides a bonus of \$1.00 a month for persons who retired after June 30, 1975 and before July 1, 1979. In addition, the bill provides that whenever employees in active service receive a pay increase, retirees will automatically be granted a percentage of the average dollar increase approved for the employees.

Your Committee heard supporting testimony from the Secretary of the Employees' Retirement System, the Coalition of Hawaii State-Counties Retirement Association, and the Hawaii State Teachers Association, and finds that this measure will enable retirees to recoup some of their eroded purchasing power and will also eliminate the need for periodic legislation to take care of these matters.

Your Committee has amended the bill by:

- 1) Deleting the incorrect reference to the year 1979 in paragraph (8), page 4, line 22;
- 2) Deleting the increase of \$1.50 a month found in page 5, line 12;
- 3) Deleting subparagraph (D) of paragraph (8);
- 4) Adding a new paragraph (9) providing for the increases deleted from paragraphs (8)(C) and (8)(D) and renumbering the proposed paragraph (9) in the bill as introduced to paragraph (10); and
- 5) Deleting the proposed repeal of sections 88-13 and 88-17 as repeal of those sections are not necessary for the purpose of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2125-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2125-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Young.

SCRep. 116-84 Human Resources on S.B. No. 2126-84

The purpose of this bill is to allow the use of a portion of the Employees' Retirement System investment earnings to cover its administrative expenses.

Under existing law, the State's general fund appropriations to the Employees' Retirement System includes funding for the system's administrative expenses. The bill would eliminate the need to include the system's administration cost in the general fund. However, any amount paid into the expense account from the investment earnings of the system would be subject to approval by the Governor and the Legislature.

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 S.B. No. 2126-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2126-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 117-84 Human Resources on S.B. No. 2213-84

The purpose of this bill is to increase the fixed dollar amount of public employer's monthly medical plan insurance contributions.

Over the years, the health fund law has been periodically amended to increase public employer's medical plan contributions to keep pace with inflation.

Your Committee heard testimony in support of the bill from the Department of Budget and Finance, the Hawaii Government Employees Association, and the Hawaii State Teacher's Association.

The dollar amounts for monthly medical contribution and total appropriation have been left blank as they have not been determined pending the availability of moneys from the general fund account.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2213-84 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 Holt.

SCRep. 118-84 Human Resources on S.B. No. 2119-84

The purpose of this bill is to establish a comparable worth system to provide equal pay for equal work in the civil service systems, the Department of Education, and the University of Hawaii.

Historically there have been several attempts to address this problem of equal pay for equal work. On the federal level there has been Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, and Executive Orders 11246 and 11375. Further, Hawaii Revised Statutes, Chapter 76, Section 1 and Chapter 89, Section 1, provide for equal opportunity regardless of sex and for merit principles in selection and classification. Facets of this issue have also been adjudicated through the courts. In Civil No. 65791, First Circuit Court, State of Hawaii, Judge Toshimi Sodemani ruled: "The statutory concept of equal pay for equal work is an inherent ingredient of the constitutional Doctrine of Merit Principle and is also impliedly embodied within the principles set forth in Section 76-1 of the Hawaii Revised Statutes."

Despite these efforts to bring about comparable worth, there continues to be low pay and limited promotional opportunities for most women in civil service and exempt educational positions. The gender division, in reality, continues to exist. This bill requires a conference of personnel directors to restructure the present classification and compensation systems for State and County civil service employees, and for the Board of Education and the Board of Regents to consult with the Conference of Personnel Directors in developing their respective compensation plans in order to achieve comparability with other service occupational groups in the State.

Your Committee heard testimony from several sources, including the Department of Personnel Services, the City and County of Honolulu, the American Civil Liberties Union, and the University of Hawaii, and finds that this bill has merit and deserves further study and analysis.

Your Committee has amended the bill by providing that the Department of Budget and Finance shall meet with the Department of Personnel Services, the University of Hawaii, and the Department of Education regarding additional staff required to implement the provisions of this bill. Your Committee has further amended the bill by deleting the words "without reducing the compensation of any employee" from lines 1 and 2 of page 10 of the bill as introduced, in order to better provide for any findings that the Conference of Personnel Directors may make.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2119-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2119-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 119-84 Human Resources on S.B. No. 108

The purpose of this bill is to fund for the fiscal biennium 1983-1985 all collective bargaining cost items in the agreements negotiated with the exclusive

bargaining representative of collective bargaining unit 13.

This bill is being reported out of your Committee in anticipation of ratification of the collective bargaining agreement negotiated between the State and Counties and Unit 13's exclusive representative, the Hawaii Government Employees' Association. Unit 13 is comprised of all professional and scientific employees, other than registered professional nurses and employees excluded under Section 89-6(c), Hawaii Revised Statutes. On February 22, 1984, the State and Counties and Hawaii Government Employees' Association reached a tentative agreement which would give all Unit 13 members pay raises of three per cent effective April 1, 1984 and another two per cent effective January 1, 1985. It appears that this new contract, retroactive to July 1983, will be approved by Unit 13 members.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 108 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 Senators Holt and Young.

SCRep. 120-84 Human Resources on S.B. No. 1841-84

The purpose of this bill is to create a non-contributing benefit plan for certain members of the Employees' Retirement System (ERS).

Currently, public employees contribute six per cent plus one and eight-tenths per cent of their gross salaries as a post-retirement contribution, to the ERS, and most contribute an additional six and seven-tenths per cent to the Social Security System. In practical terms, this contribution results in retirement benefits which generally exceeds final take-home pay while employed and is costly to both employers and employees alike. These costs are expected to increase in the future, and viewed together with the low take-home pay ratio already experienced by most public workers, indicate that the System is inefficient and needs to be substantially changed.

The noncontributory benefit plan proposed in this bill will address the problems inherent in the System by doing the following: (1) increasing employees' take home-pay; (2) providing a typical career public employee with combined System and Social Security benefits substantially equivalent to the employee's pre-retirement income; (3) giving present members of the System a choice of benefit plans; (4) making the System more tax efficient; (5) enhancing the opportunities for more individualized retirement planning; and (6) ultimately simplifying the administration of the System.

Your Committee heard favorable testimony from the Secretary of the Employees' Retirement System, the City and County of Honolulu, and the HGEA, and finds that this measure will improve the financial condition of Hawaii's public employees and employers without disturbing the range and level of benefits which are currently in place.

Your Committee has amended the bill to include members who are on approved leave of absence among the Class A membership provided in section 88-47(1), Hawaii Revised Statutes and by providing that a Class C member with thirty years credited service, who has reached age fifty-five, shall be eligible to receive a normal retirement allowance after termination of service.

Your Committee has further amended the bill 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. 1841-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1841-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 121-84 Human Resources on S.B. No. 2199-84

The purpose of this bill is to increase the fixed dollar amount of public employer's monthly dental plan insurance contributions to the childrens dental plan from \$5.28 to \$5.72 per eligible child under age 19.

On January 12, 1984, the Board of Trustees awarded a one year contract extension to Hawaii Dental Service, the present insurance carrier. Hawaii Dental Service agreed to continue the existing childrens dental plan at the same level of benefits from July 1, 1984, to June 30, 1985 for a monthly rate of \$5.72. Over the years, the Health Fund Law has been periodically amended to increase public employer's Dental plan contributions to keep pace with inflation. No State or County funds will be required to implement the increase in the dental plan rate contained in this bill.

Your Committee heard testimony in support of the bill from the Department of Budget and Finance, and the Hawaii State Teacher's Association.

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

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2199-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2199-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 122-84 Agriculture on S.B. No. 1926-84

The purpose of this bill is to make an appropriation of \$700,000 for the construction of Phase II of the Molokai Agricultural Park.

According to testimony presented by the Hawaii Farm Bureau Federation, Molokai has been expanding it's base in diversified agriculture and the completion of Phase II of the Molokai Agricultural Park will ensure that expansion.

The project will also provide additional sources of employment to an island faced with a declining pineapple industry.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1926-84 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 Machida.

SCRep. 123-84 Agriculture on S.B. No. 2046-84

The purpose of this bill is to provide assistance to agricultural producers who do not have access to a state irrigation system and to appropriate funds to the water development fund for such assistance.

Currently, agricultural producers who utilize county water systems pay a higher rate than those using a state water system. This bill corrects this inequity by providing assistance to agricultural water users to whom a state irrigation system is not available.

Your Committee finds that it is unfair and inappropriate that state funds are used to assist only those farmers with access to a state system and that it is in the public interest to correct this situation.

Your Committee finds further that the water development revolving fund will not have sufficient funds to carry out the purpose of this Act until the water rate increases currently being planned go into effect, such that the "start-up" appropriation in this bill is needed and necessary.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2046-84 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 Machida.

SCRep. 124-84 Agriculture on S.B. No. 1799-84

The purpose of this bill is to appropriate up to \$200,000 to be matched dollar for dollar by the pineapple industry for the promotion of fresh Hawaiian pineapples in the United States and Canada.

Your Committee heard favorable testimony from the Chairman of the Board of Agriculture and the Pineapple Growers Association of Hawaii. A report submitted by the Association shows the effectiveness of the first and second pineapple promotions which have increased sales by 25 and 36 per cent respectively, and prices improved 5 and 21 per cent during the same periods.

Your Committee is in agreement that appropriating funds for such programs will contribute greatly to the stability of the second largest agricultural industry in the State and that it is in the public interest to amend the bill to increase the appropriation to \$300,000 to be matched dollar for dollar by the pineapple industry.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1799-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1799-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Machida.

SCRep. 125-84 Agriculture on S.B. No. 1798-84

The purpose of this bill is to provide funds for the Agricultural Products Program established under Chapter 153, Hawaii Revised Statutes.

Agriculture is the third largest source of outside income to the State, however, the industry, particularly the sugar and pineapple producers, are facing serious economic problems with increased competition from subsidized foreign companies. The Agricultural Products Program can serve as a catalyst to encourage private investment and new technology in the development of new agricultural products.

Your Committee received favorable testimony from the Chairman of the Board of Agriculture and finds that the \$250,000 appropriation will help to broaden the State's economic base by stimulating the development of agricultural products.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1798-84 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 Machida.

SCRep. 126-84 Agriculture on S.B. No. 1800-84

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds in an amount not to exceed \$3,500,000 for Hawaiian Agronomics Process to construct an irradiation facility.

Presently, all uses of ethylene dibromide (EDB) except for use on fruits has been banned by the Environmental Protection Agency. The exception for use of EDB on fruit is due to expire in September, 1984. An extension of the September termination date appears unlikely due to concern over the carcinogenic properties of EDB. Since papayas for export are treated with EDB to kill fruit flies, alternatives must be found to assure the continuing viability of Hawaii's papaya export market.

Your Committee received supporting testimony from the Department of Planning and Economic Development and finds that one alternative to the use of EDB for fumigation is irradiation. This bill would allow for the exploration of all alternatives including an irradiation facility to assist processing enterprises. The use of irradiation would eliminate the dangers associated with the use of EDB and, therefore, this measure is in the interest of the public health, safety, and welfare.

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 S.B. No. 1800-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1800-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Machida.

SCRep. 127-84 Agriculture on S.B. No. 1797-84

The purpose of this bill is to appropriate up to \$3,000,000 to be matched dollar for dollar by the Hawaiian Sugar Planters' Association for sugar research and development.

Currently, on a worldwide basis, \$5-6 billion is spent annually on agricultural research. New technology generated from such research has increased technological efficiency, developed new commodities, improved existing commodities, and reduced production risk. This bill will continue the support the State has provided in the past to keep Hawaii's largest agricultural industry viable.

Your Committee heard favorable testimony from the Dean of the College of Tropical Agriculture and from the Hawaiian Sugar Planters' Association. Research projects undertaken by the Association have resulted in increased sugar yields, improved irrigation techniques, and a reduction in the amount of chemicals needed to protect crops.

Your Committee finds that such research in the past has greatly benefited the State and that the lack of such research would hinder the viability of the industry.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1797-84, 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 Machida.

SCRep. 128-84 (Majority) Agriculture on S.B. No. 1502-84

The purpose of this bill is to allow the Department of Agriculture to collect fees for the inspection, sampling and testing for adulteration of all animal feed, except for feed for domestic pets.

Chapter 144, Hawaii Revised Statutes, allows the Department to inspect, test and sample animal feed for adulteration. However, the inspection fees currently provided for under Chapter 144 does not equitably distribute the costs of conducting the program.

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 S.B. No. 1502-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1502-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Machida.

Senator Fernandes Salling did not concur.

SCRep. 129-84 (Majority) Consumer Protection and Commerce on S.B. No. 2087-84

The purpose of this bill is to limit the amount of interest that may be charged on certain agreements of sale under chapter 478, Hawaii Revised Statutes, and to eliminate the "drop dead" provisions in chapters 408 and 478, Hawaii Revised Statutes.

Previous amendments to chapter 478, now contained in section 478-8(e)(2), removed the legal limit on the rate of interest that is permissible on certain agreements of sale for real property. Since that time, your Committee has been apprised of a situation disadvantageous to consumers which requires further attention. Evidence presented to the Committee indicates that buyers under many agreements of sale may be unable to qualify for financing to satisfy their agreements of sale at maturity due to interim increases in market interest rates during the agreement of sale terms. Unlike lenders, whose costs of funds fluctuate, many such sellers have older fixed-rate mortgages at low interest rates so that interest rates charged on the agreements of sale are excessively above the mortgage rates. An undue advantage in bargaining power exists in

favor of sellers in such cases. Your Committee therefore believes it is important to limit the interest rates on agreements of sale in such circumstances by imposing a ceiling related to the underlying mortgage rate. Your Committee believes that agreements of sale covering leased fee interests in real property should be exempt from such limitation, however.

Under the "drop dead" provisions, interest rate ceilings on loans governed by chapter 408 would revert to the maximum rates in effect prior to May 31, 1980, and interest rate ceilings under certain provisions of chapter 478 would revert to the rate ceilings that were in effect prior to June 18, 1982 for some rates and prior to May 30, 1980 for credit cards.

In the enactment of changes in interest rate ceilings in chapters 408 and 478, the legislature imposed the "drop dead" provisions in order to provide a period of time to gain experience with the new ceilings and to demonstrate that the amendments would not cause rates in the marketplace to rise to and stay at the new ceilings.

Your Committee was presented substantial testimony and evidence in the form of data and studies indicating that the various financial and economic factors in the marketplace and the free flow of financial commerce have kept interest rates at competitive levels below the existing rate ceilings.

The experience gained since the enactment of the new ceilings with the "drop dead" provisions also indicates that the current ceilings do not cause Hawaii lenders to lend at higher rates.

Evidentiary charts of loan rates for Hawaii's three major types of lenders - banks, savings and loan associations, and industrial loan companies - prepared and presented to your Committee at the Committee's request indicate that during the last four years, interest rates have been substantially below the ceilings enacted in 1980 with the "drop dead" provisions, but have exceeded for significant periods the old rates that would have been in effect without those 1980 amendments. Had the old rates been in effect, credit would have been denied Hawaii borrowers. These charts demonstrate the advantage of not allowing the "drop dead" provisions to reimpose the old rate limits and the wisdom of encouraging competition in Hawaii's lending market by keeping existing rate ceilings. Competition also is evident in Hawaii from competitive advertising by lenders.

Various studies document competition in the credit industry. The National Commission on Consumer Finance has confirmed earlier studies that actual rates tend to fall below the maximum legal ceilings when the legal ceilings are in excess of the effective cost of providing lendable funds. The New York State Banker's Association has conducted a survey on interest rates in New York by twenty commercial banks over a three-year period ending in 1982. A range of interest rates of approximately seven percentage points occurred, indicating that lenders set rates competitively in response to competitive conditions, and did not set them automatically at the legal ceiling. A two-year survey by the New York State Banking Department after New York removed all usury rate ceilings revealed that the removal led to greater competition among banking institutions for consumer lending and more flexible terms for consumers on loans.

Rate ceilings may in fact have an anti-competitive impact. A federal Inter-Agency Task Force on Thrift Institutions established in 1980 analyzed the impact of rate ceilings on the participation of savings and loan associations in diverse consumer lending markets. It concluded that these ceilings in those markets discouraged diversification and led to greater market concentration, thus reducing competition. Under current Hawaii law restricting the rate of interest on credit cards to 18 per cent a year, few Hawaii retailers have offered their own credit card programs in recent years and several have sold their operations to out-of-state banks. Only one of Hawaii's savings and loan institutions offers a credit card program and no industrial lender in Hawaii has entered that market. At the same time, mainland institutions aggressively solicit Hawaii consumers by mail with programs at rates established under the mainland institutions' lending laws. Your Committee is concerned that a reimposition of the old loan rates under the "drop dead" clauses could have a similar result of impairing competition in the consumer and commercial loan area.

The evidence presented to your Committee shows that few states have as

restrictive usury or interest rate limitation laws as Hawaii and that Hawaii appears to be the only state outside of the Deep South which still meaningfully restricts loan rates in commercial transactions. In a strong national trend, most other states have abandoned such restrictions on commercial loan rates. Hawaii also is among a shrinking minority of states having restrictive limitations in consumer transactions. Your Committee especially has noted testimony that no state which has eliminated a usury rate ceiling in recent years has reimposed the ceiling.

Your Committee received a number of studies indicating the adverse effects on consumers as well as lenders of interest rate ceilings when rate ceilings inhibit the ability to get market rate of return for loans. These studies document that extensions of credit are then curtailed or prevented. The legislature was responding primarily to this problem in 1980 when the provisions of chapters 408 and 478 containing the "drop dead" clauses were enacted. In Hawaii at that time, small businesses which needed funds to continue operations could not receive them in all cases because it was not economical to lend. Businesses were denied the ability to borrow and stay in operation because of artificial government restraints in the form of rate ceilings.

The evidence also shows that Hawaii's old rate ceilings could cause consumers to pay higher prices for goods and services because the consumers are able to get less "cash" credit and more "point of sale" credit such as retail installment purchases and credit card transactions, which may cause merchants to compensate for reduced profitability by raising prices. Ceilings also may force lenders to seek non-interest means to continue lending at the market return such as increasing down payments, shortening loan maturities, and raising minimum loan size. This necessary credit rationing means that the small borrowers, low-income borrowers, and high-risk borrowers are the ones who cannot obtain necessary credit. When ceilings make lending unattractive, the adverse impact of the ceilings also falls heavily on the credit sensitive sectors of the State's economy such as the construction industry and small businesses, and forces consumers to seek credit elsewhere. Thus, restrictive rate ceilings reduce the availability of credit and increase its cost to consumers and others, and may have other adverse impacts on consumers and other persons.

Given the demonstrated ability of the financial and economic market to control interest rates, and the evidence of adverse effects caused by too-low rate ceilings, your Committee believes that it is better not to reimpose the old rate ceilings under the "drop dead" provisions. The possibility of an increase in the cost of funds due to national and local factors beyond the control of Hawaii's lenders, or this legislature, is a concern. Such an increase could adversely affect the ability of lenders to supply Hawaii's economy with credit if Hawaii's interest rate limits were to be set again at the old rates, and many borrowers including small businesses and consumers could be denied the credit they need. Your Committee feels that it is better to avoid such a crisis. While your Committee cannot predict what the cost of funds and thus lending rates will be, your Committee notes evidence in the marketplace of factors that could contribute to such a crisis such as the federal deficit and predictions of increased inflation.

Your Committee believes that it is important to act this year on the deletion of the "drop dead" provisions. Next year the necessary considerations of budget review, state plans, tax revision, and other pressing issues will be before the legislature. Some concern has been expressed to your Committee of the beginning of problems with the "drop dead" provisions now, because of the need by lenders to make advance commitments for financing of development, homes, and other long-term transactions. Without the "drop dead" deletion this year, the lenders must face the prospect that their cost of funds will exceed what the law allows them to receive as interest before the "drop dead" provisions can be deleted.

Your Committee has made certain clarifying changes to the provisions in Section 1 of the bill as received concerning agreements of sale in order to exclude agreements of sale for purchase of leased fee interests and to accommodate situations in which multiple or adjustable rate mortgages may exist on one property. Your Committee after reviewing this new section and section 478-8(e)(2) has placed the provisions of the new section in section 478-8(e)(2) and renumbered the remaining sections of the bill.

A severability section also has been added, together with a new section to

assist in conforming S.B. No. 1747-84 (which repealed the "drop dead" provision but also revised the sections in which those provisions are found) to S.B. No. 2087-84.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2087-84 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2087-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.
Senators Fernandes Salling and Kawasaki did not concur.

SCRep. 130-84 Consumer Protection and Commerce on S.B. No. 1553-84

The purpose of this bill is to clarify the Real Estate Commission's enforcement authority to issue cease and desist orders for violations of the Horizontal Property Regimes Act.

Presently, section 514A-47, Hawaii Revised Statutes, authorizes the Commission to file complaints, hold hearings and issue cease and desist orders for any violation of chapter 514A. However, section 514A-46 limits the investigatory power of the Commission to certain sections of chapter 514A, namely, sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A-68, 514A-69, and 514A-85. Moreover, section 514A-48, which authorizes the Commission to initiate legal actions to enjoin certain acts limits the Commission's authority to bring such actions for violations of the same sections set forth in section 514A-46.

The Commission, in order to be consistent with the provisions of section 514A-46 and 514A-48, has taken the position that its authority to hold hearings and issue cease and desist orders under section 514A-47 extends only to violations of those sections of chapter 514A which the commission is authorized to investigate and initiate actions to enjoin pursuant to sections 514A-46 and 514A-48, respectively.

Your Committee finds that section 514A-47 is presently incongruous in that it conceivably would allow the Real Estate Commission to hold hearings and issue cease and desist orders to halt alleged violations which it is not authorized to investigate. This bill would cure the incongruity by conforming the cease and desist authorization with the investigatory and enjoinder powers of the Commission.

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. 1553-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1553-84, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 131-84 Judiciary on Gov. Msg. No. 116

Recommending that the Senate consent to the nomination of EDWIN H. HONDA as Judge, Circuit Court of the First Circuit, for a term of ten years.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 132-84 Human Resources on S.B. No. 1677-84

The purpose of this bill is to include in the determination of an elected official or judge's average final compensation, any compensation received after the employee retired from the State retirement system but was in active service; provided that such service commenced within three years following the date of retirement.

Individuals who retire under the provisions of section 88-73, Hawaii Revised Statutes, will now want to take advantage of the higher compensation earned after the employee filed for retirement. Section 88-73, Hawaii Revised Statutes, allows elected officials or judges the opportunity of retiring after attaining an

allowance of 75% of their average final compensation, provided that they may continue in active service but shall not receive a retirement allowance until they leave active service. Contributions to the retirement system cease at the time of the election. Upon leaving active service, the elected official or judge will receive the retirement allowance provided for in section 88-74, Hawaii Revised Statutes, together with the post-retirement allowance provided for in section 88-90, Hawaii Revised Statutes, which shall be computed from the date of election as though the person had left active service on that day.

Under present law, in lieu of a right to recover the maximum retirement allowance, individuals may elect to receive a retirement allowance under a number of optional plans. This bill would also allow individuals who retired under section 88-83, Hawaii Revised Statutes, to amend any election of a mode of retirement allowance prior to leaving active service at which time the election shall be irrevocable.

Your Committee heard testimony from the Secretary of the Employees' Retirement System to the effect that the number of members of the retirement system who would have this opportunity and exercise this option to elect a mode of retirement allowance is minimal.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1677-84 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 Senators Holt, Young and Henderson.

SCRep. 133-84 Human Resources on S.B. No. 1115

The purpose of this bill is to provide for the establishment of compulsory arbitration procedures for resolving disputes over the terms of an initial or renewed agreement involving the exclusive representative of bargaining Unit (12), police officers.

Presently, firefighters are subject to final offer arbitration procedures. Police officers are not subject to binding arbitration if collective bargaining negotiations fail and under existing law have the right to strike. However, police officers are government employees who because of the nature of their occupation, would almost certainly be classified as "essential employees" and forbidden to participate in a strike. In effect police officers are left without any effective means of collective bargaining. The bill would provide an effective means to settle disputes and is in the interest of continued public health and safety.

The State of Hawaii Organization of Police Officers submitted testimony in favor of extending binding arbitration to police officers to effectively strengthen their collective bargaining power. Because of the type of service police officers provide, they like firefighters should be allowed to resolve their collective bargaining disputes by final and binding arbitration. Your Committee finds that the arbitration process which covers firefighters should be extended to police officers as a viable alternative to strike action.

Your Committee has amended the bill to require that in disputes involving police officers where the parties are unable to agree on a third arbitrator when a three-member arbitration panel is required, all persons on the list of potential arbitrators from which the third arbitrator is selected must be Hawaii residents.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1115, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1115, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Young and Henderson.

SCRep. 134-84 Human Resources on S.B. No. 107

The purpose of this bill is to fund for the fiscal biennium 1983-85, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining.

This bill is being reported out of your Committee in anticipation of ratification and legislative approval of the recently negotiated collective bargaining agreements between public employee bargaining units and the State and county governments. Salary increases for employees included in bargaining units will result in salary adjustments for excluded employees.

Your Committee has amended the bill by providing for salary increases for excluded officers and employees of the Office of Hawaiian Affairs. Your Committee has further amended the bill 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. 107, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 107, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt, Young and Henderson.

SCRep. 135-84 Education on S.B. No. 2133-84

The purpose of this bill is to make appropriations for capital improvement projects at various elementary schools.

The projects include the design and construction of classrooms at Helemano elementary; the planning and design of a library at Kanoelani elementary; the design and construction of a multi-purpose room at Kipapa elementary; the repairs and maintenance of facilities and buildings at Manana elementary; the design and construction of an administrative building at Mililani-uka elementary; the design and construction of a cafetorium at Mililani-waena elementary to protect students who are now utilizing an open lanai exposed to the elements and insects; the design and renovation of the library at Wheeler elementary; the design and construction of locker rooms and bathroom facilities for the athletic field at Waipahu high school; and the design and construction of classroom at Waipahu intermediate school.

Your Committee is well aware of the fiscal constraints placed on the State and the limited number of dollars available to fund many worthwhile and deserving programs. However, your Committee finds that the projects provided for in this bill are deserving of further consideration by the Committee in Ways and Means.

The amounts appropriated for each project have been left blank for further consideration by the Committee on Ways and Means.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2133-84 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 Senators Holt, Kuroda, Mizuguchi, Young and A. Kobayashi.

SCRep. 136-84 Education on S.B. No. 1939-84

The purpose of this bill is to provide a grant-in-aid to the Honolulu Symphony in the amount of \$500,000 for fiscal year 1984-1985, provided that the symphony first provides \$2,500,000.

Your Committee finds that the Symphony has been an integral part of the rich cultural and artistic life of the State for more than eighty-three years, and their concerts in the schools and on the Neighbor Islands allows many of Hawaii's people an enriching and invaluable opportunity to hear one of the top-ranked symphonies in this country.

Your Committee finds that in view of the current economic conditions requiring the State to practice fiscal restraint, the five-to-one matching requirement of the grant-in-aid is a reasonable and appropriate method of administering and monitoring the proposed grant-in-aid.

Your Committee amended the bill to require that the State's portion of the funding is only to be disbursed when the Symphony first provides \$2,500,000 in

the form of pledges or cash; provided further that at least \$1,000,000 in cash is in the endowment fund.

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

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1939-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1939-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Aki, Kuroda, Young and A. Kobayashi.

SCRep. 137-84 Education on S.B. No. 2033-84

The purpose of this bill is to appropriate \$15,000 to the Council of Samoan Chiefs and Orators for operating expenses incurred in sponsoring the 1984 Samoan Flag Day celebration.

Your Committee finds that April 1 is officially designated as Samoan Flag Day commemorating the day American Samoa became a territory of the United States. The council of Samoan Chiefs and orators are planning the celebration of Flag Day on August 11, 1984. Although the Samoan community in this State is large and growing, it has not received the kind of interest and attention from the public that the Hawaiian community has received. Yet like the Hawaiians, the Samoans are a part of the Polynesian cultural heritage which should be preserved. The funds appropriated will provide the Samoan community with an opportunity to reestablish ties with the past and reassert their cultural heritage.

Another possible source of aid available to the Samoan Community and others is the State Foundation on Culture and Art. The State Foundation should encourage the interested parties, including the Samoan community to work towards achieving a federal tax exempt status. Under a tax exempt status further aid may be obtained from the State Foundation for the celebration of Samoan Flag Day.

While your Committee recognizes that current economic conditions requires the State to follow a stringent fiscal policy, your Committee finds that this appropriation is both reasonable and justified in light of the importance of preserving the Samoan cultural heritage and that further consideration of this measure by the Committee on Ways and Means is warranted.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2033-84 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 Senators Abercrombie, Aki, Kuroda, Young and A. Kobayashi.

SCRep. 138-84 Education on S.B. No. 1937-84

The purpose of this bill is to allow instructional resource augmentation positions to be allotted to the secondary grades from the school priority fund.

Act 261, Session Laws of Hawaii 1982, established a school priority fund within the Department of Education. The fund serves to augment regular instruction and other educational services, at the discretion of individual schools. Individual schools may now to an extent plan, budget, and administer programs with greater authority and responsibility to satisfy their own unique needs.

Under Act 261 only elementary schools are entitled to instructional resource augmentation positions. This bill would allow up to twenty-five per cent of the positions to be allotted to secondary schools.

Your Committee notes that a report by the Intermediate School Task Force indicates that students at the intermediate level have been sorely neglected with less than adequate funds allocated to their level with a similar lack of personnel. The report also cites recurring disruption by students and a decrease in academic scores and motivation.

Your Committee finds, however, that redeploying positions from the elementary to the secondary schools can be disruptive to the programs that presently exist in the elementary schools. Accordingly, your Committee has amended the bill by reducing the percentage of instructional resource augmentation positions from "not more than twenty-five per cent", to "not more than ten per cent", that may be allotted to the secondary grades.

This amendment will both retain and recognize the advantages of the school priority fund and assist the intermediate school level with more teachers.

Your Committee has also amended the bill by: deleting the reference to "competitive project proposal system" mentioned in the purpose section and by deleting section 3 of the bill which does not serve to further or add to the purpose of the bill; and making technical changes which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1937-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1937-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Aki, Kuroda, Young and A. Kobayashi.

SCRep. 139-84 Education on S.B. No. 1851-84

The purpose of this bill is to appropriate a grant-in-aid to enable the Polynesian Voyaging Society (PVS) to conduct research, educational, and cultural activities associated with its planned voyage through Polynesia.

The PVS is an organization dedicated to education and research of the seafaring traditions of Polynesians. The PVS, through its Education Committee, has committed itself to developing educational material and techniques, especially for the children of Hawaii, relating to maritime skills and achievements of Polynesian voyagers. In addition, the PVS, through projects such as the 1985-1987 voyage of the Hokule'a, has conducted extensive research and documentation of a unique source of material and information about the Polynesian oceanic voyaging traditions within Hawaii's cultural heritage.

Your Committee finds that since Hawaii has the advantage of accessibility to valuable information resources, the State can and should emerge as a leader in a necessary and important endeavor to preserve, through research and documentation, Polynesian history and culture. An appropriation by the legislature to the Polynesian Voyaging Society is an important step toward this goal.

Your Committee received favorable testimony from the Polynesian Voyaging Society, the State Foundation on Culture and the Arts, and the Arts Council of Hawaii, supporting the proposed appropriation. The Polynesian Voyaging Society testified that it has and will continue its own efforts to obtain funds from private sources to support its ongoing projects, including research, documentation and information dissemination relating to its planned voyage in 1985.

Your Committee has amended the bill to specify that the amount of the appropriation to the Polynesian Voyaging Society shall be \$200,000. Your Committee finds that this amount is reasonable in light of the important and invaluable projects to be supported by the appropriation and in light of the efforts of the Polynesian Voyaging Society to, on its own, solicit necessary funding.

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

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1851-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1851-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Aki, Kuroda, Young and A. Kobayashi.

SCRep. 140-84 Education on S.B. No. 2205-84

The purpose of this bill is to require the Chief Election Officer, upon the implementation of a new apportionment plan, to designate the representative districts that make up the departmental school board districts to comply with the new districts scheme.

Your Committee finds that this measure, requiring the Chief Election Officer to notify the Board of Education of a new apportionment plan, no later than ten days prior to the close of filing in elections, will allow candidates for the Board ample time to file for election.

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

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2205-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2205-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Abercrombie, Aki, Kuroda, Young and A. Kobayashi.

SCRep. 141-84 Higher Education on S.B. No. 1932-84

The purpose of this bill is to establish a secondary student loan market for Hawaii.

Currently there exists a need to provide liquidity for lending institutions making student loans in Hawaii. Due to the unique nature of student loans many lending institutions find illiquidity a problem. This bill would alleviate the problem by allowing a non-profit corporation to purchase student loan contracts from lending institutions, thus releasing more money for student loans.

Your Committee received testimony that in 1979 the Governor designated United Student Aid Funds, Inc. to serve as guarantor and administrator of the student loan program for Hawaii. Further, your Committee notes that section 309-1 is partly outdated because of changes to section 103(e) of the Internal Revenue Code.

Your Committee therefore amended section 1 of the bill to delete references to Public Law 89-287 which was repealed by section 116(c)(1) of the Higher Education Amendments of 1968, Public Law 90-575.

In order to create a secondary market for student loans, the bill has been further amended by the addition of section 2, which grants the Governor authority to request the organization of a private non-profit corporation which meets the following requirements of section 103(e) of the Internal Revenue Code of 1954, as amended:

1. The corporation must be not for profit.
2. The corporation must be established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965.
3. The corporation must be organized at the request of the State or one or more political subdivisions thereof or the corporation must be requested to exercise such power by one or more political subdivisions.
4. The corporation must be required by its corporate charter and by-laws or by State law to devote any income (except payment for expenses, debt service, and the creation of reserves for same) to the purchase of additional student loan notes or to pay over any income to the State of a political subdivision thereof.

Additionally, your Committee has also provided further language to ensure that the dissolution of any corporation organized under Chapter 309 will not result in the loss of assets acquired for the purpose of purchasing student loan notes.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1932-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1932-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Mizuguchi, Solomon, Uwayne and Soares.

SCRep. 142-84 Higher Education on S.B. No. 2092-84

The purpose of this bill is to appropriate funds to be expended by the University of Hawaii for the purposes of:

1) increasing graduate assistant stipends; 2) establishing permanent positions for an Assistant Womens Intercollegiate Basketball Coach, an Assistant Womens Intercollegiate Volleyball Coach, and an Assistant Athletic Director for Facilities and Support Services at the Manoa campus; 3) supporting research and development activities at the Hawaii Natural Energy Institute; 4) implementing an on-line Student Registration and Records system at the Manoa campus; 5) acquiring and supporting a new computer system at the College of Engineering, Manoa campus; 6) increasing funding for the Cooperative Extension Service, College of Tropical Agriculture; 7) increasing security patrol coverage at the Manoa campus; 8) providing funds for the Western Interstate Commission on Higher Education; 9) establishing a permanent Educational Media Specialist position at Kapiolani Community College.

Your Committee heard favorable testimony for these appropriations from the Chancellor, University of Hawaii at Manoa, the Chancellor for Community Colleges, the Chairman, Western Interstate Commission on Higher Education, and others.

Your Committee finds that there is definite need for these appropriations and that it is in the public interest for these appropriations to be expended.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2092-84 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 Senators Abercrombie, Mizuguchi, Solomon, Uwayne and Soares.

SCRep. 143-84 Health on S.B. No. 2244-84

The purpose of this bill is to mandate the Department of Health (DOH) to provide secondary prevention services in child abuse and neglect and to provide an appropriation for such services.

It is the intent of this bill to establish in the Department of Health a program to provide a continuum of services for the family prior to the birth of a child up to and including adult education for parenting responsibility, in order to reduce child abuse and neglect.

Your Committee heard testimony in support of this bill from various private social service agencies that provide child and family services.

Though the Department of Health and the Department of Social Services and Housing (DSSH) support the basic intent and purpose of this bill, several concerns were raised with respect to its approach to the problem of child abuse and its impact on programs and services presently in place. Since state agencies such as the DSSH's Oahu Child Protective Services Advisory Committee and private organizations as the Hawaii Family Stress Center, the Salvation Army Residential Treatment Facilities for Children and Youth, provide secondary prevention services, mandating a single state agency could undermine the existing multi-agency approach. Other nonmandated agencies may feel less obligated to continue the preventive services they currently offer.

The DOH also expressed their concern about mandating specific services. Since most of the DOH's preventive and treatment program are not mandated, such as community services for the developmentally disabled, maternal and child health services, and others, if it is necessary to mandate secondary prevention for child abuse and neglect, other services, because of their importance, should

also be mandated. This would have the effect of providing the Executive and Legislature with little flexibility to act in time of financial limitation and could divert funding from other critical programs.

In light of the concerns raised, your Committee amended the bill by:

1) Eliminating the mandate for child abuse and neglect program and the provision for an appropriation, and

2) Amending section 321-31, Hawaii Revised Statutes, to include in the function, duties and powers of the DOH, language that the department serve as a lead agency in coordinating child abuse and neglect services in both the public and private sectors.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2244-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2244-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 144-84 Education on S.B. No. 2127-84

The purpose of this bill is to appropriate capital improvement project funds to various schools in the sixteenth senatorial district.

The schools to be funded are: Aiea High School for the sum of \$180,000 for the replacement of glass louvers with wood, the design and construction of a paved play court, and the installation of central air conditioning in the library; Alvah Scott Elementary School for the sum of \$40,000 for the design and construction of a paved play court; Radford High School for the sum of \$600,000 for the construction of an industrial art complex; and a general appropriation of \$300,000 for the repair and maintenance of schools in the sixteenth senatorial district.

Your Committee is well aware of the fiscal constraints placed on the State and the limited number of dollars available to fund many worthwhile and deserving programs. However, your Committee finds that the projects provided for in this bill are deserving of further careful consideration by the Committee on Ways and Means.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2127-84 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 Senators Abercrombie, Aki, Kuroda and Mizuguchi.

SCRep. 145-84 Education on S.B. No. 2215-84

The purpose of this bill is to authorize the issuance of general obligation bonds in the sum of \$300,000, for the purpose of funding capital improvement projects at Kalani High School.

The projects are to include the auditorium and other improvements at Kalani High School.

Your Committee is well aware of the fiscal constraints placed on the State and the limited number of dollars available to fund many worthwhile and deserving programs. However, your Committee finds that the projects provided for in this bill are deserving of further careful consideration by the Committee in Ways and Means.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2215-84 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 Senators Abercrombie, Aki, Kuroda and Mizuguchi.

SCRep. 146-84 (Majority) Housing and Urban Development on S.B. No. 1813-84

The purpose of this bill is to amend section 519-2, Hawaii Revised Statutes, by providing a method to calculate the lease rent payable at the time of the reopening for single family residential houselots, to amend the schedule of these renegotiations, and to allow the Hawaii housing authority or its designee to assess costs of certain arbitrations against either or both parties to the arbitration, based upon the equities.

Your Committee received numerous testimonies from lessee organizations favoring a rent stabilization bill. Some lessees testified that under current language in the section, the upper limit of 4 per cent of "owner's basis" has produced renegotiated rents that are in excess of 20 times the original rents.

Economist Wesley Hillendahl told your Committee that although the cost of housing increased at a lower rate than disposable income from 1900 to 1970, since 1970 the cost of housing has increased at a greater rate than disposable income. Thus, home ownership is taking an increasing share of a family's income. This trend could make housing virtually unaffordable to many of Hawaii's people.

Your Committee recognizes that a variety of factors, some unique to our island state and some beyond our control, contributes to this dilemma. In part, however, this problem is directly attributable to the concentration of land ownership in the State, landowners leasing lands under fixed-term contracts, and excessive lease rent increases at reopenings.

Your Committee has reviewed the bill's provisions and made amendments. These amendments are outlined as follows:

Section 1 has been deleted.

A major consideration is the inequitable position lessees are placed in at renegotiation. Lease rents negotiated at the start of a lease are determined in a free market with no constraints on either lessor or lessee. These rents shall serve as "bases" upon which all increases are calculated.

Your Committee heard numerous testimonies favoring the use of a consumer price index as the basis to which rental adjustments should be measured. Your Committee recommends using as the basis, the all items category of the United States Consumer Price Index for Urban Wage Earners and Clerical Workers, also referred to as "CPI-W", since it has been consistent in its use of economic weights over a longer period of time and is calculated more frequently than the Honolulu Consumer Price Index.

The bill has been amended to calculate renegotiated lease rent to be the greater of either the original rent or rent paid at the time of the current reopening multiplied by the ratio of the latest United States Consumer Price Index for Urban Wage Earners and Clerical Workers available at the time of renegotiation divided by the United States Consumer Price Index for Urban Wage Earners and Clerical Workers annual average of the year in which the lease rent went into effect.

Thereafter, renegotiations shall be every ten years for the remainder of the term calculated according to this formula.

Because we cannot predict the United States Consumer Price Index, the bill was further amended to include a 5.5 per cent lease rent increase cap, compounded annually. This is the current interest rate paid on passbook savings. The formula allows financial institutions to calculate the upper limits of rental increases during the term of a mortgage.

With this redefined upper limit, the ceiling of 4 per cent of "owner's basis" has been deleted.

Because the bill provides for a predictable mathematical formula to calculate renegotiation of lease rents, the arbitration provision is no longer necessary and has been deleted.

Your Committee finds that the United States supreme court may render its

decision in *Midkiff v. Tom* after the close of the 1984 Hawaii State Legislative session; therefore, in order not to influence that case, your Committee has provided that this bill shall become applicable only if the United States Supreme Court declares any part of chapter 516, Hawaii Revised Statutes, unconstitutional.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1813-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1813-84, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senators Kawasaki, Ajifu and A. Kobayashi did not concur.

SCRep. 147-84 Transportation on S.B. No. 2049-84

The purpose of this bill is to amend several sections of Chapter 287, Hawaii Revised Statutes, to remove inconsistencies and to tighten up the law. The amendments are as follows:

SECTION 287-6: Revision will provide a more realistic 30-day period for the recipient of a financial responsibility order to satisfy the requirements of the order and for the administrator to take appropriate action. The present 10-day period is too short in time for the recipient to satisfy the requirements of the order and for the administrator to take appropriate action.

SECTION 287-8: Revision will include employers as being held responsible for their employee's actions if the employee should be involved in an accident while operating a company vehicle in the scope of his employment. Since the employee cannot provide insurance verification for the employer's vehicle, the employee's license is suspended for non-compliance with the security requirements. This amendment will place the burden of proof on the employer or company vehicles.

SECTION 287-9: Revision will reflect the same limits of Section 657-7, Damage to Persons or Property. The present "one-year" period for relief of financial responsibility after suspension of a person's license is inconsistent with the "two-year" limit for filing a law suit for damages as state in Section 657-7, Hawaii Revised Statutes. The amendment will correct this inconsistency.

SECTION 287-20: Revision will insure that the maintenance of financial responsibility requirement also include those individuals who are convicted of driving a vehicle after that person's drivers license has been suspended or revoked. A person who continues to drive is willfully disregarding a judicial or statutory order not to drive. A person convicted of this offense should be required to file and maintain proof of financial responsibility when that person's license is reinstated.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2049-84, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2049-84, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 148-84 Judiciary on S.B. No. 1450

The purpose of this bill is to effectuate the title.

Your Committee is amending this bill to specifically allow the chairperson of the Hawaii paroling authority to serve in that capacity for more than two consecutive four-year terms and to allow that person to remain a member on the paroling authority for more than eight consecutive years. These extensions of the chairperson's tenure will enable the Hawaii paroling authority to achieve continuity in leadership and to hereby carry out its functions more effectively and efficiently.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1450, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1450, S.D. 1, and be re-referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee except Senators Cayetano and A. Kobayashi.

SCRep. 149-84 (Majority) Consumer Protection and Commerce on S.B. No. 1747-84

The purpose of this bill is to comprehensively update provisions relating to loans under chapter 408, Hawaii Revised Statutes, the Industrial Loan Companies Act. The Hawaii Bankers Association, the Hawaii Consumer Finance Association, the Hawaii League of Savings Institutions, and the Bank Examiner testified in support of S.B. No. 1747-84.

Because of changes over time, lenders have increasingly faced difficult interpretive and compliance problems under chapter 408. Antiquated provisions in the law have restricted flexibility and denied Hawaii consumers the benefits of loan programs which are common in other states. Hawaii lenders have had difficulty making available the flexible terms necessary for small business loans or giving the assurances of compliance with state law necessary for selling loans to mainland institutions. Chapter 408 contains inconsistencies, conflicts with federal law, and fails to contemplate many common lending practices. This is because much of the Industrial Loan Companies Act was drafted in 1937 and 1939 and has been amended only in a piecemeal fashion thereafter.

Revision is especially appropriate now. Many sweeping new federal laws have been enacted the past four years facilitating interstate competition among financial institutions and interest rate deregulation. These new laws have been implemented by many new federal regulations affecting many different types of lenders. In addition, Hawaii and the rest of the country are seeing rapid changes in the delivery of financial services and the federal regulation of consumer and commercial credit. The problems of operation under chapter 408 are illustrated by the fact that no less than eight acts of the 1983 Legislature (Acts 20, 48, 104, 127, 191, 221, 226, and 253) were necessary to address specific problems, following years of annual amendment of the law. Senate Bill No. 1747-84 represents an attempt to deal in a comprehensive manner with a broad range of the problems which have arisen largely for historic reasons.

Senate Bill No. 1747-84 includes the following amendments to the law:

SECTION 1. Section 408-1. Formal reference is made to the "Industrial Loan Companies Act" by which chapter 408 has been known. Language has also been deleted because of definitions which have been revised and expanded.

SECTION 2. Section 408-1.1. Because of the comprehensive nature of the disclosure requirements under federal law for consumer transactions and the lack of a compelling reason for a system of inconsistent disclosures for commercial transactions not subject to federal law, this section has been deleted.

SECTION 3. Section 408-2. The definitions have been arranged in alphabetical order with certain definitions added or expanded as follows:

"Billing cycle". The second sentence has been deleted to make the definition simpler and better accommodate commercial or irregular transactions.

"Company". The definition has been simplified to reflect the change in the definition of the word "person".

"Consumer loan". This new definition is intended to correspond to the scope of the Truth in Lending Act. The definition of "consumer loan" is to distinguish consumer and commercial loans for the purposes of certain protections under section 408-15(c)(3), (e), (j)(7), and (j)(10), because those protections may be appropriate for consumer transactions, but not commercial ones. These provisions deal with points, late charges, release fees, and prepayment charges.

"Contract". As the loan contract may be in the form of a credit agreement, loan agreement, or other document other than a promissory note, this definition has been expanded.

"Engaging in the business of an industrial loan company". A redundant and obsolete reference to the loan of money in "weekly, monthly, or other periodical

installments" and the references to section 478-3 have been deleted. When this definition was enacted, section 478-3 was the major interest rate limitation provision which is no longer true. Similar changes to the section 478-3 references are made elsewhere.

"Industrial loan company". An obsolete reference to the issuance of investment loan certificates by mortgage companies has been deleted, as well as certain other redundant or archaic language.

"Interest". This definition has been added to simplify later references and clarify interest limitations under section 408-15(b) and (c).

"Licensee". This definition has been added to clarify existing references to the word.

"Open-end loan". The last sentence in this definition has been revised to refer to the replenishment feature of open-end loans in accordance with the Truth in Lending Act definition and to better distinguish open-end from closed-end loans.

"Person". This definition has been revised to make it consistent with the Truth in Lending Act.

"Section 408-3 loan". This new definition has been added to clarify later references to the types of block or advance interest loans described in section 408-3.

"Truth in Lending Act". This definition has been added to simplify later references.

SECTION 4. Section 408-7. Technical changes have been made to this section to incorporate language deleted from section 408-9. Other language is clarified or revised to reflect changes in the definitions.

SECTION 5. Section 408-9. Section 408-9 is deleted as the same subject is covered in section 408-7 and in old section 408-15(e), which is revised section 408-15(h) under the bill.

SECTION 6. Section 408-15. The first sentence in section 408-15(a), a general provision, has been reworded positively to be consistent with the idea of the rights and duties conferred by the section and to avoid unduly restrictive interpretations. Wording is added at the end of the first sentence to clarify that chapter 408's loan-making provisions do not apply when the rate is permissible under other law. The organization of section 408-15 has been changed to simplify this very complex section and to clarify applicability of different subsections to block or simple interest loans. The new separate lettered subsections are discussed below.

Subsection (b)--Advance interest. Subsection (b) deals with precomputed or block interest loans. References have been added to clarify that there are two methods of computing interest under section 408-3.

Wording in new (b) has been otherwise clarified and simplified. Old paragraph (4) on installment payments is merged into new subsection (g), and old paragraph (5) is merged into new subsection (e).

After-maturity interest has been limited to twenty-four per cent a year unless a lesser rate for after-maturity interest is authorized. This formerly was true only for simple interest loans. The new after-maturity provision abandons the term "original rate of interest", which is vague when used to refer to stepped-rate block loans.

The refund provision for section 408-3 loans has been relocated as a new paragraph (3) to section 408-15(b) to clarify its applicability only to block loans. The provision that no refund of less than 25 cents need be made, is expanded to refunds of not less than \$1.00 to reflect modern handling and postage costs.

Subsection (c)--Simple interest. This is a new subsection based on the language formerly contained in subsection (j), the authority for simple interest loans up to a rate of twenty-four per cent per year. References have been

added to both fixed and variable rate loans to reflect modern lending practices. After-maturity rates are reworded consistently with block loan provisions, and to provide an after-maturity rate commensurate with the rate allowed on the pre-maturity loan term.

The former restrictions upon the terms and amortization of simple interest loans are deleted. These restrictions were included to ensure in part that industrial loan institutions did not make imprudent loans. This reason is now less important because those licensees which accept thrift investments will now have to have federally insured accounts and be subject to federal limitations on the loans they may make.

Unfortunately, loan term limitations have served to deny Hawaii borrowers many important and helpful loan programs which are widely available elsewhere in the country. As an example, one of the most popular forms of home improvement loans is a ten- or fifteen-year term mortgage which has a thirty-year amortization. Such a loan is not permitted under current chapter 408. Similarly, the result of the present six-year limitation on partially amortized or interest-only loans is that borrowers seeking to refinance loans in the sixth year are forced to pay the costs of title policies, drafting fees, points, and other refinancing expenses merely so that the lender may avoid possible violations of the term limitations (the lender may now make a home improvement loan for a maximum of six years with a thirty-year amortization). To the extent a balloon payment loan imposes the risk of default on the borrower, the term limitation probably serves to make the loan even riskier for the borrower as it eliminates the lender's option to extend the maturity to accommodate possible financial difficulty of the borrower.

An oversight in subsection (c)(2) is corrected by adding reference to loans committed to before May 31, 1980 as well as those made before May 31, 1980.

Subsection (c)(3) contains the provision for points which formerly appeared in subsection (h)(6). The requirement that points be assessed only on real estate loans has now been limited to consumer loans. There is no public interest served by prohibiting these business transactions. The reference to calculating points as part of the permissible interest rate has been modified to except points on calculations for open-end loans. One reason for this change is that problems arise in interpreting old subsection (h)(6), because the Truth in Lending Act provides that points, while a form of finance charge, are not to be calculated as part of the annual percentage rate for open-end loans, unlike closed-end loans, because the amount the borrower will ultimately borrow and the period of the borrowing are both within the borrower's control and not known to the lender when the disclosures are given. Hawaii law appears to assume that open- and closed-end loans are treated in the same manner under the Truth in Lending Act. This has been corrected to make state law consistent with federal law.

Subsection (d)--Alternative permissible rate. This subsection uses the annual percentage rate under the federal Truth in Lending Act as a means of providing a clear rate authorization and limit. A similar standard is used in the Uniform Consumer Credit Code and in the laws of certain other states. The bill preserves the existing block and simple interest authority because these have been used for many years and are relied upon by certain lenders, while adding the Truth in Lending Act alternative.

Currently, both simple interest loans and block interest loans are tied to a list of authorized charges in subsection (h). The subsection has been amended many times over the past decade. For the most part, chapter 408 does not require authorized charges to be considered as part of the cost of the credit or in the computation of the effective annual rate of interest. Current subsection (h), therefore, does not expressly provide a uniform method of computing the cost to a borrower of a loan transaction when such charges are involved, or a simple way that can be used by the lender to determine readily if the loan is lawful. The Truth in Lending Act calculation fills this gap. Because of the bewildering variety and ever-changing character of consumer and commercial loan transactions, many questions arise about whether certain charges should be treated as part of the cost of credit. In many cases, there are no clear answers under present state law, but answers are provided under the Truth in Lending Act and related law. The Truth in Lending Act and Regulation Z have evolved over some fifteen years and thousands of legal cases and administrative interpretations. Lenders for consumer transactions must already give

Regulation Z disclosures and many lenders are federally examined to assure disclosures are properly given.

Most charges imposed by a creditor in connection with a loan must be calculated into the cost of credit under Regulation Z. "Finance charge" is defined under federal law to include "any charge payable directly or indirectly by a consumer and imposed directly or indirectly by a creditor as an incident to or a condition of extension of credit". From the finance charge, the annual percentage rate is computed. The annual percentage rate standard is used in the bill solely for the narrow purpose as a rate measurement tool for the assistance of parties involved in loan transactions. Should substantial federal law changes later occur which affect the definition of annual percentage rate, the legislature will be free in future years to review the continued use of this measurement standard. State law will continue to govern loan transactions under chapter 408, but will incorporate the federal annual percentage rate standard merely as a credit cost measurement formula.

Certain charges may be "excludable" from the definition of finance charge, if certain conditions are met under federal law. For example, taxes and filing fees prescribed by law may be excluded from the finance charge under Regulation Z, but only if they actually will be paid to public officials. Language is contained in the last paragraph of subsection (d) under which a licensee is "presumed" for rate computation purposes only to have given Regulation Z disclosures. Testimony clarified that this provision will not lessen or limit the obligations and liabilities of lenders under federal law to give disclosures.

For many, if not most loans, the permissible rate of interest under alternative subsection (d) will be lower than that permitted for the same loan under alternative (b) or (c), because if other charges are computed into the cost of credit, the annual percentage rate will increase. Because there is still a twenty-four per cent ceiling which the annual percentage rate cannot exceed, less "interest" is permitted under subsection (d).

Subsection (d) will allow creditors to pass on charges which are not authorized under the list of charges in subsection (h), which will become revised subsection (j). This is needed to enable customary, acceptable loan-related charges to be levied. The corresponding offset is that if these charges are part of the finance charge under Regulation Z, then the charges will be calculated as part of the lender's maximum twenty-four per cent annual percentage rate. Many of the charges currently authorized under subsection (h) and many of the customary charges under new subsection (d) are part of the finance charge under the Truth in Lending Act. Examples of this would include release fees retained by the lender, required credit insurance, appraisal and credit report charges in non-real estate loans, charges upon a transfer of equity, points, loan fees, and so on. The Truth in Lending Act sweeps up these charges and treats them as part of the maximum rate, rather than authorizing them in addition to a rate.

The last two sentences in subsection (d) are intended to avoid the misunderstanding that (d) is dependent on applicability of or compliance with the Truth in Lending Act.

Subsection (e)--Late charges. This new subsection has been added to deal with late charges on all types of loans. Requirements for notice and the five per cent maximum charge have been limited to consumer loans. For many commercial loan transactions (which may be up to \$750,000), the five per cent or \$50 limitation is not realistic and in some cases, the percentage measure does not reflect the terms of a commercial transaction. The five per cent late charge is authorized under the bill for both simple and block interest consumer loans. The \$50 limitation has been eliminated for all loans.

Subsection (f)--Fraction of a month. This was old subsection (c). The requirement to treat part of a month as a whole month for interest computation purposes is made optional, rather than mandatory, and made applicable to late charge calculations.

Subsection (g)--Repayment terms. This was old subsection (d). The repayment terms have been broadened and reference has been added to demand loans. Reference to demand loans was in old subsection (j). Repayment may be essentially what is agreed in the contract. References only to installment

repayments or a single payment on maturity are too limited given the great variety of loan plans today. While earlier repayment would theoretically tend to increase the effective return on a block loan, the refund requirements in new subsection (b)(3) and the overall ceiling rate remove this concern practically. (Old subsection (f) has been moved to new subsection (b)(3) as earlier noted.)

Subsection (h)--Application, licensees only. This was old subsection (e). Wording here has been simplified to reflect the changes in definitions.

Subsection (i)--Deferred payments, interest, etc. This was old subsection (g) and has been revised to allow greater flexibility in permitting extensions for partial payments and to avoid an implication that it covers only block loans. As revised it also would require agreements to be signed only by the borrower with one copy furnished to the borrower, instead of one each to the borrower and the lender, to reflect modern lending practices for certain transactions.

Subsection (j)--Other charges. This was old subsection (h). Wording has been clarified and limited to refer only to advance interest (subsection (b)) and simple interest (subsection (c)) loans. References have been added to recording fees and preparation costs for financing statements, security agreements, and instruments, and certain archaic language, such as that referring to chattel mortgages, has been deleted. Several charges, which are customary and routine in many loan transactions, and necessary to compensate lenders fairly, have been put in express wording to clarify and confirm present law. These include survey, notary, and title report fees actually paid to third parties. Two provisions dealing with appraisal fees have been placed side by side for clarity. Provision has been made for mortgage reserve funds and premiums for mortgage insurance. The reference to attorney's fees has been broadened to refer expressly to the cost and expenses of repossession, foreclosure, and other legal remedies, which normally are subject to court allowance. The limitation upon fees for transfers of equity or assignment of contracts has been increased from \$10 to \$25 and limited to consumer loans. As earlier noted, the authorization for points, formerly subsection (h)(6), has been relocated to the simple interest provision and is now subsection (c)(3).

The authorization for attorneys' fees for drafting various documents has been expanded and clarified. Wording relating to prepayment charges has been clarified with respect to the measure of a twelve-month period and certain restrictions have been limited to consumer loans.

Express reference has been added to commitment fees. The treatment of such fees under existing laws is sometimes questioned. Usury case law in other states provides distinctions between commitment fees and prepaid interest or "points", and the new wording should clarify the distinction in Hawaii. Certain charges which are excludable from the finance charge under Regulation Z and commonly expected to be paid and received have been added to clarify and confirm present law. These include loan application fees, overdraft charges, and charges for participation in open-end credit plans.

Application fees are imposed by many lenders for mortgage loans, where a great deal of work may be necessary merely to process an application. The fee may be imposed under (j) only if it is a genuine application fee charged to "all applicants". This protects against charging only loan-approved or loan-disapproved borrowers. Open-end accounts are frequently tied to checking accounts which have overdraft fees, because of the problems and costs in servicing checks drawn over a credit limit and to discourage overdrafts. Such overdraft or overline fees are common nationally and are readily understood by consumers familiar with similar charges for checks drawn on insufficient funds. Last, membership fees for participation in an open-end credit plan are common in Hawaii and nationally. Many large New York and California banks which solicit local customers by mail impose such fees and assess interest at rates higher than permitted Hawaii institutions. A credit card provides identification, a badge of creditworthiness, a means of cashing checks, record keeping services, and incidental benefits for particular programs (which may include flight insurance or special purchase opportunities); yet because of monthly "free ride" periods a consumer may never pay a penny of interest. Disallowing participation or membership fees under chapter 408 requires the less affluent who use the credit to subsidize those who have the funds to pay promptly each month and avoid interest charges and places local financial institutions in an even more handicapped position than currently exists in competition with mainland institutions.

Old subsection (i) has been eliminated as conditional sale contracts were used under the predecessor of our Retail Installment Sales Act. Old subsection (j) has now become subsection (c) in modified form as earlier noted.

Subsection (k)--Acceleration of installments. Revision has been made to reflect changes in definitions and to parallel the change in subsection (g) with respect to demand loans.

Subsection (l)--Open-end loans. This subsection has not been changed in major respect. Because open-end loan programs may fall under the new alternative permissible interest rate, reference has been added that licensees may lend at the rates permitted under subsection (c) or (d). Language has been corrected in subsection (1)(3)(B), which formerly would have permitted an interest rate up to 52 times higher than what likely was intended. The requirement for written notice of changed terms under subsection (1)(5) has been modified to provide for fifteen days notice consistent with that required under the Truth in Lending Act. Subsection (1)(7) has been modified to clarify and confirm that late charges may be imposed in connection with open-end loans, subject to the limitations contained in subsection (e), and other charges may be permitted only as provided in subsection (j) or in the alternative, under subsection (d), but not under a mix of both methods.

SECTION 7. Section 408-16. The first sentence of this section is clarified so that the two chapter 478 usury provisions cited do not apply to loans made by industrial loan companies under the authority of chapter 408, rather than exempting all loans made by licensees. Loan-related charges recoverable by borrowers for contracts made at excessive rates are brought into agreement with changes to old section 408-15(h) (new (j)) by deletion of an obsolete reference to certain of those charges. The penalty for imposing an excessive rate of interest has been modified to an amount of interest paid by the borrower up to one year after the date of the contract. At present, inequitable situations could arise with long-term loans where a lender charging a small excessive charge may lose such interest for up to fifteen years. The loss of such interest paid up to one year after the date of the contract is a very substantial penalty and avoids inequitable application of the excessive charge penalty. The last sentence has been moved to section 408-16 from section 408-17, with only a deletion of redundant wording.

SECTION 8. Section 408-17. The existing provisions in section 408-17 either duplicate or conflict with existing provisions in Regulation Z. The bill would eliminate the duplicative and obsolete provisions.

Paragraph (1) has vague and different language than the far more comprehensive and clearer requirements of section 226.18 of Regulation Z. "Actual effective rate of interest", for example, lacks the necessary legal certainty of meaning of the defined term "annual percentage rate" under the Truth in Lending Act. Other inconsistencies and problems are resolved by the deletion. In addition to federal law, lenders also must comply with Hawaii's new plain language law which requires that consumer contracts "...be written in a clear and coherent manner using words with common and everyday meanings, and appropriately divided and captioned by its various sections" (section 487A-1, Hawaii Revised Statutes).

Paragraph (2), requiring a separate receipt for each payment, simply does not conform to modern lending practices and technological change. Most borrowers receive canceled checks, monthly billing statements, and an annual statement; to impose the further cost of a separate mailing for each receipt simply increases the cost of borrowing with no commensurate benefit to borrower or lender. It should be noted the 1983 legislature provided an exemption for payment by check or draft (Act 221) which has largely eliminated the former significance of this paragraph.

Paragraph (3) also is obsolete. Marking "indelibly every application or security" with the word "paid" or "canceled" protects neither the borrower nor the lender. Various federal consumer credit laws have mandatory record keeping requirements. With respect to mortgages, assignments, or other instruments filed with the assistant registrar of the land court, the lender cannot return these as they are retained permanently in the land court system. There are substantial legal penalties for lenders which fail to release security interests upon payment (see for example section 490:9-404, Hawaii Revised Statutes) and indemnification requirements for lenders which fail to return

promissory notes upon full payment (see for example section 490:3-804, Hawaii Revised Statutes).

Paragraphs (4) and (5) are merely paraphrases of requirements under the former version of Regulation Z. While the language in paragraph (5) is somewhat unclear if it pertained to all loans, it was intended to provide certain disclosures for open-end loans only. The Truth in Lending Act retains requirements similar to those in paragraphs (4) and (5), but with different wording and rules.

The requirement for a rate chart in section 408-17 is not feasible and has been deleted. The hundreds of varying commercial and consumer loan programs and day-to-day rate changes with credit decisions made on the creditworthiness of individual borrowers, as well as the security afforded in particular transactions, means that there is no useful way information can be conveyed in the form of a simple rate chart.

The requirement for an effective rate of interest disclosure as part of each note has never been clear in view of the different methods under which interest is computed and the lack of definition of what constitutes an effective rate.

A requirement has been added to section 408-17 to assure that borrowers are furnished a contract copy. Because of mail or telephone transactions, reference is added to furnishing the contract as soon as is practicable, if not when the contract is made. To reduce uncertainty where there are accommodation parties, "borrower" is defined for purposes of this provision.

SECTION 9. Section 408-20. This section has been substantially revised. The first sentence relating to banking, trust company, and savings and loan association business has been deleted. Other laws governing those types of institutions contain restrictions upon doing such business without a license. That which an industrial lender can do is elsewhere specified in chapter 408. The line between "banking" and "engaging in the business of an industrial loan company" is not always clear and the industrial lender should have the benefit of the powers and rights given by specific wording in chapter 408 without unnecessary comparisons that theoretically might limit those powers and rights. The second sentence in the present section 408-20 relates to lenders splitting loans or making a number of small loans to take advantage of a higher rate authority. Because chapter 408 does not have split rates which would enable a lender to obtain a higher return by making a series of small loans, this prohibition is not appropriate and has been deleted. The last two sentences in section 408-20 have been revised. More flexibility is given to industrial loan companies to transfer loans to out-of-state buyers; however, the present restrictions on transfer to in-state parties are retained. The non-recourse requirements also are retained except for pledge transactions. Recourse may be implied by the nature of the pledge financing. Without authorization for the pledge of chapter 408 loans, licensees would be unable to borrow funds on a secured basis or enter into routine financing arrangements, such as a warehousing line of credit.

SECTIONS 10 and 11. Section 478-4 and 407-92.5. Sections 10 and 11 have been added to provide that banks and savings and loan associations which lend under the authority of chapter 408 will be subject to the same penalties imposed by chapter 408 as an industrial loan company. The change clarifies the intent of existing law to confirm that banks and savings and loan associations are subject to the same penalties to the same extent as industrial loan companies with respect to the same types of loans if an excessive charge is imposed or another violation of section 408-15 or 408-17 arises, rather than under other law.

Your Committee has amended the bill to delete those provisions in the bill which would have eliminated the present "drop dead" provisions in chapter 408 under which the present interest rate authority enacted in 1980 would expire on July 1, 1985. Your Committee believes this important subject is more properly addressed in a separate bill, S.B. No. 2087-84, which deals with other usury laws in addition to chapter 408.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1747-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1747-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.
Senators Fernandes Salling and Kawasaki did not concur.

SCRep. 150-84 Tourism on S.B. No. 2242-84

The purpose of this bill is to expand the purpose and use of State small boat harbors, to include commercial vessel activities, except for small boat harbors on Oahu which are within three statute miles of a commercial harbor.

The rapid expansion of the State's tourist industry over the past fifteen years has resulted in a concurrent increase in demand for ocean-based recreational activities on the part of our visitors. Private industry, primarily the small business sector, has responded to this demand through the expansion of the tour boat and charter fishing industry. The State's commercial ports, especially on the Neighbor Islands, are often crowded and in need of expansion to accommodate the larger passenger and cargo vessels. As a result, these commercial ports cannot accommodate the smaller commercial boats that cater to tourists. In addition, in several cases, these commercial ports are not conveniently located to serve the growing demands of the tourist-oriented commercial maritime activities, or to serve the needs of the small, independent, commercial fisherman.

Your Committee finds that the tour boat industry which includes such activities as sportfishing, sailing, snorkeling, scuba diving, inter-island cruises, glass bottom boat tours, and dinner cruises has become an integral part of the State's visitor industry. It has recently been estimated that on Maui alone, the tour boat industry generates approximately \$25,000,000 annually and provides up to 500 jobs. For the State, this further generates between \$250,000 to \$500,000 in harbor use fees as well as an equal amount in personal income taxes, in addition to federal taxes, unemployment compensation and fuel taxes. Therefore, your Committee finds that it is essential that the State provide necessary support to insure the survival and expansion of commercial vessel activities as an integral component of the visitor industry.

In response to this problem the Legislature, in 1983, passed Act 107, Session Laws of Hawaii, Regular Session of 1983, which permitted commercial vessels to moor in all small boat harbors on the neighbor islands, as well as the small boat harbors on Oahu except for those which are located within three miles of a commercial harbor.

The present language of section 266-21, Hawaii Revised Statutes, relating to the purpose and use of small boat harbors, limits the primary use of such harbors to the traditional uses of recreational boating and the landing of fish. As a result, while commercial vessels are presently permitted to moor in small boat harbors, the issue of whether such vessels are permitted to engage in commercial activities is ambiguous. It is the intent of this bill to resolve this ambiguity by statutorily permitting the use of small boat harbors for commercial vessels and their activities.

Your Committee amended the bill by:

1) Changing the definition of "commercial vessel activities" from "the utilization of vessels for carrying passengers and freight for hire" to the broader definition of "the utilization of vessels for activities or services provided on a fee basis".

2) Clarifying that commercial vessels and commercial vessel activities are not permitted in the Ala Wai and Keehi Small Boat Harbors.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2242-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2242-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 151-84 Consumer Protection and Commerce on S.B. No. 1557-84

The purpose of this bill is to require motor vehicle repair dealers to be licensed prior to advertisement of their services.

Your Committee received favorable testimony from the Motor Vehicle Repair Industry Board and the Hawaii Business League and finds that this measure will curtail advertisement by unlicensed repair dealers and protect the consumers from possible deceptive practices.

Your Committee 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. 1557-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1557-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 152-84 Consumer Protection and Commerce on S.B. No. 1539-84

The purpose of this bill is to authorize the department of commerce and consumer affairs to issue citations to unlicensed contractors.

Presently, a civil complaint must be filed in court in order to obtain an injunction to stop or prevent construction activities by an unlicensed contractor. This procedure may take months because a number of unlicensed contractors do not maintain a permanent address. The delay in obtaining and effectuating a court order allows unlicensed activities to continue.

This bill allows unlicensed contractors to be cited immediately after a violation has been observed. The citation can be issued and the sanction imposed immediately rather than the months it takes under the current system.

The bill also provides an administrative hearing and appeal process, thereby eliminating unfair or unwarranted prosecution.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1539-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 153-84 Tourism on S.C.R. No. 4

The purpose of this concurrent resolution is to set forth the Legislature's agreement with a proposed amendment of Executive Order No. 1446 to permit use of State lands in Waikiki for a memorial park without the Natatorium. The concurrent resolution states that the Legislature concurs with a proposed amendment to Governor's Executive Order No. 1446 eliminating the words "and Natatorium" from the present order which requires the Waikiki War Memorial Park and Natatorium and adjacent lands to be used as a "Memorial Park and Natatorium".

Your Committee finds that the present condition of the Natatorium constitutes a hazard to the health, safety and welfare of the general public, as stated in H.C.R. No. 173, adopted during the 1982 Legislative Session. The adoption of S.C.R. No. 4 does not mandate the demolition of the Natatorium since, under Section 171-11, Hawaii Revised Statutes, no demolition, erection, or alteration of improvements on public lands may take place until after the Legislature has had a chance to review the applicable executive order. However, S.C.R. No. 4 sets forth the intent of the Legislature to concur with an executive order which proposes to use State lands in Waikiki for a memorial park without the present Natatorium.

Your Committee heard testimony from the Department of Parks and Recreation, City and County of Honolulu, the Department of Land and Natural Resources, the Chamber of Commerce of Hawaii and the Diamond Head Community Association supporting S.C.R. No. 4 as an important step in facilitating the improvement of State lands in Waikiki.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 4 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 154-84 Government Operations and County Relations on S.B. No. 1499-84

The purpose of this bill is to permit the Department of Accounting and General Services to adopt rules and regulations to provide for the orderly use of State buildings and to penalize violators.

The Department has encountered problems in its control of activities conducted in or around public buildings, particularly with demonstration groups and vagrants because the present law does not provide the Department with the authority to adopt rules and regulations to control such occurrences.

Your Committee received supporting testimony from the Department of Accounting and General Services and finds that this bill will allow the Department to facilitate uninterrupted public service by the tenant agencies by permitting the Comptroller to adopt rules for the orderly use of State buildings.

Your Committee has amended the bill to make 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. 1499-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1499-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 155-84 Government Operations and County Relations on S.B. No. 1708-84

The purpose of this bill is to clarify Section 78-4, Hawaii Revised Statutes, relating to limited service on boards and commissions.

The current law provides that no person shall be allowed to serve on more than one board or commission of a public character created by the State. However, it is unclear as to what the term "board or commission of a public character" means. Certain cases construing similar statutes have concluded that restrictions on public service do not apply to an office with purely advisory functions, to which there has been no delegation of a portion of the sovereign power of government. In other instances, it was determined that offices of a temporary nature do not fall under this prohibition. In view of the uncertainty regarding the intent of Section 78-4, the Governor and particularly the Mayors of the various counties have conservatively applied the statute to prohibit service on more than one State or County board or commission.

Your Committee received testimony from the Attorney General as to several problems which have arisen upon administration of this law. First, it is difficult to determine which persons have been appointed to State or County boards because there is no requirement that county appointing authorities submit a list of their appointees to the State. Secondly, some boards require members to possess certain qualifications, and in some cases, it is difficult to recruit qualified individuals when the restrictions in Section 78-4 are applied. Finally, the unintentional appointment of one member to more than one board has caused some confusion.

Your Committee is in agreement with the Attorney General and finds that this bill would clarify the law by stating that no person shall be allowed to serve on more than one State board or commission expressly created by a state statute or the State Constitution.

Your Committee amended the bill by making technical changes which have no substantive effect and 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. 1708-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1708-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 156-84 Consumer Protection and Commerce on S.B. No. 1865-84

The purpose of this bill is to require sellers of retail installment contracts to provide an annual statement to buyers, disclosing the amount of finance charges paid during the preceding calendar year.

Currently, all retail department stores within the State, who offer credit cards disclose the finance charges on statements issued in January and February on active accounts. The Christmas season is the busiest shopping time of the year, and the majority of credit accounts are active during January and February and those consumers receive information on finance charges. However, for inactive accounts during the same period, retailers will provide information on the basis of individual consumer requests, usually over the telephone. This bill would require annual statements to be provided to the buyer, regardless of the amount of credit extended.

Your Committee received written testimony from the Office of Consumer Protection and oral testimony from Mr. George Dyer, and made the following amendments to the bill:

- 1) Page 1, line 6, the phrase, "or received payments" was deleted and replaced with, "a retail installment contract providing for finance charges or who has received payments including finance charges". The purpose for this amendment is to reasonably limit the conditions under which this section may apply.
- 2) Page 1, lines 13 and 14, the word "shall" on these lines was changed to "may", to give the Office of Consumer Protection discretion to initiate a civil action for imposition of fines. The civil action and fine may be unfair in the case of an unintentional violation by a seller who does not regularly extend credit to consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1865-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1865-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 157-84 Transportation on S.B. No. 1519-84

The purpose of this bill is to reflect new federal directives relating to clearinghouse agencies.

Clearinghouse agencies are responsible for the coordination and review of applications for federal assistance and for direct federal development. Changes made in federal policy require equivalent changes in the Hawaii Revised Statutes to update the statutes.

Your Committee heard favorable testimony from the Department of Planning and Economic Development which stated that current language in the statutes is outdated. The Department, in consultation with the City and County of Honolulu have recommended further technical changes which clarify the language in the bill.

Your Committee is in agreement with the testimony and has amended the bill to make the technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1519-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1519-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 158-84 Transportation on S.B. No. 1721-84

The purpose of this bill is to provide a more flexible and less complex formula for appointing members to the Commission on Transportation.

Currently, the Commission serves only in an advisory capacity, and consists

of one member from each major county, one member from each district of each major county, and three members at large. This bill reorganizes the Commission to consist of not more than eleven members, with each of the four major counties being represented by at least one member.

Your Committee, after hearing testimony from the Department of Transportation to the effect that the present formula is unwieldy and difficult to implement, finds that the general policy requiring apportionment within the basic island units need not apply to a Commission which serves only in an advisory capacity.

Your Committee has amended the bill by deleting the provision that "the terms of the members shall be designated by the director", because the selection and terms of members of boards and commissions are already provided in section 26-34, Hawaii Revised Statutes. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1721-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1721-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 159-84 Transportation on S.B. No. 1981-84

The purpose of this bill is to include a definition of pedicab in the Statewide Traffic Code, add a new section to the Code making the Code applicable to pedicabs, and make technical corrections to the Code.

Currently, the Code has no definitions which specifically pertain to pedicabs and no provisions for pedicab operators. As a result, pedicab operators who commit traffic violations cannot be convicted under the Statewide Traffic Code. This bill corrects this situation.

Your Committee heard favorable testimony from the Department of Transportation, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Honolulu Police Department as to the need for this bill.

Your Committee agrees with the testimony and has amended the bill to simplify and clarify the definition of pedicab.

Your Committee has further amended the proposed new section to Chapter 291C to make it consistent with similar sections relating to motorcycles and bicycles and to take into consideration existing county provisions.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1981-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1981-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 160-84 Ways and Means on S.B. No. 1577-84

The purpose of this bill is to conform the Hawaii income tax law to the Internal Revenue Code. Your Committee has amended this bill to incorporate the contents of Senate Bill No. 433, S.D. 1, the purpose of which is to include animal and poultry producers as wholesalers and subject to the 0.5 per cent general excise tax by correcting a technical error in Act 253, Session Laws of Hawaii 1982.

Your Committee heard both Senate Bill No. 1577-84 and Senate Bill No. 433. Your Committee finds that because Senate Bill No. 433 must be amended to incorporate an amendment to section 238-4, Hawaii Revised Statutes, its contents must be incorporated within Senate Bill No. 1577-84 which has a broader title.

Your Committee finds that Act 253, Session Laws of Hawaii 1982, extended the 0.5 per cent excise tax rate to agricultural or aquacultural producers, but did

not include animal and poultry producers, contrary to the intent of the Act. This bill corrects that technical error by extending the wholesale rate of one-half of one per cent on sales to all "producers".

Your Committee finds that this provision should be extended to the use taxation of those persons in this area so that the use tax on importations by producers and cooperative associations also shall be 0.5 per cent instead of 4 per cent.

Your Committee has provided a definition of agricultural products in section 237-5, Hawaii Revised Statutes, as there has been some misunderstanding on the part of the Department of Taxation concerning the type of activity to be included as agricultural products, and has amended section 238-4 so that there will be no difference in application between that section and the appropriate provisions of section 237-4.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1577-84, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1577-84, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Aki, Solomon and Uwaine.

SCRep. 161-84 Higher Education on Gov. Msg. No. 166

Recommending that the Senate advise and consent to the nomination of BURT K. TSUCHIYA to the Board of Regents, University of Hawaii, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 162-84 Education on S.B. No. 1938-84

The purpose of this bill is to require that a portion of the study and instruction in the first eight grades of the State's public schools be devoted to the oral expression, written composition and spelling of one or both of the official languages of the State (English and Hawaiian).

The present bill does not propose to supplant or undermine in any way the traditional educational process in the schools of our State. The bill instead enhances the provision of educational services to the children of our State by requiring alternatives by which the Department of Education can provide meaningful, effective and creative instruction. Education is a right and all of the children of the State should be afforded the opportunity to receive a quality education in a manner which is most conducive to their special needs and circumstances.

Your Committee received substantial testimony in support of this bill from the Department of Education, Trustees of the Office of Hawaiian Affairs, Alu Like and numerous educators in this State. Based on this testimony, your Committee finds that the bill is an important step in achieving the following goals:

1. State compliance with efforts by the Federal government to support education through indigenous languages.
2. Preservation of the unique Hawaiian culture and heritage of this State through the teaching of the Hawaiian language to our youth.
3. Development of educational curriculum which addresses the unique and special needs of children whose native language is Hawaiian.

With respect to this third goal, your Committee recognizes that it is a fundamental educational principal that education, particularly at the elementary level, should begin with concepts or ideas which are familiar or known to students. In this way, children can develop a solid foundation from which to learn and be in a better position to comprehend new and more complex material. For children who have been raised speaking Hawaiian, such as many of the children of the island of Ni'ihau, to be put into a learning situation where they are required not only to speak, but also to receive instruction in English, places such children at a severe learning disadvantage. These children are

faced with simultaneously learning the language by which they are being taught and the material or subject matter they must learn. In order to provide the Ni'ihau children and other similarly situated children with meaningful and quality education programs, these children must be given an opportunity to obtain, through the use of the Hawaiian language, a firm foundation of basic learning skills before they are cast into a bilingual learning situation. In addition, the opportunity to receive instruction in their native language will reinforce a positive self-image and instill in these youths a strong sense of pride in their Hawaiian heritage.

The Department of Education testified that the goal of developing Hawaiian language based education programs for the island of Ni'ihau can be achieved by an amendment which is narrower in scope and suggested that the phrase "except for special projects using the Hawaiian language as approved by the Board of Education" be substituted for the proposed language of S.B. 1938-84. Your Committee finds that the wording suggested by the Department of Education more specifically identifies the intent and purposes of the bill and has therefore amended the bill accordingly.

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

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1938-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1938-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 163-84 (Majority) Tourism on S.B. No. 1824-84

The purpose of this bill is to require proof of completion of the Hawaii or other government sponsored hunter safety training program for applicants for hunting licenses born after July 1, 1967 or any other person applying for a license for the first time regardless of age.

Your Committee heard testimony from the Department of Land and Natural Resources (DLNR), Hawaii Federation of Sportsmen, Pig Hunters Association of Oahu, and the National Rifle Association of America in support of the bill.

The hunter safety education program course taught in Hawaii uses a team concept. Each instructor teaches or assists in their own specialty, insuring that the students get complete and accurate information. The course teaches ethics, conservation, archery safety and equipment, firearms safety and functioning, first aid, survival, and game care. In other states where programs of this type were made mandatory, the number of hunting accidents and game violations decreased.

At present, the program resources are as follows:

<u>ISLAND</u>	<u>CERTIFIED INSTRUCTORS</u>	<u>AWAITING CERTIFICATION</u>
Hawaii	15	3
Maui	6	9
Lanai	5	1
Molokai	3	--
Oahu	19	1
Kauai	4	4

This program is presently conducted on a voluntary basis and no additional State funds are necessary to support the program. The salary for the program coordinator and the maintenance of the training equipment already exists in DLNR's budget. About 75 per cent of this program is funded by federal funds.

Your Committee amended the bill to specify that applicants below eighteen years of age must submit proof of completion of a hunter safety program and to provide that accepted hunter safety programs include those programs sponsored or approved by any state or territory of the United States or any Canadian province. The bill was further amended to require that anyone convicted of violating any game laws or rules of the State complete the State Hunter Safety

Training Program prior to reissuance of a hunting license.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1824-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1824-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Carpenter and Mizuguchi did not concur.

SCRep. 164-84 Tourism on S.B. No. 2025-84

The purpose of this bill is to amend Chapter 6E, Hawaii Revised Statutes, by adding procedures in reporting the discovery of human remains and relics and in protecting native Hawaiian burial grounds and shrines; by establishing new activities in the historic preservation program, and new duties of the State Historic Places Review Board and of the State Historic Preservation Officer; by specifying the number of meetings of the Review Board; by amending the criteria for listing state historic property, including live-in parks; and by including curatorship of historic artifacts as an eligible funding activity.

Your Committee finds that there is a need to minimize the adverse impacts to significant historic and archaeological sites in Hawaii. This bill revises several aspects of the present laws regarding archaeological and historic sites.

Your Committee amended the bill by (page and line numbers refer to the bill as originally received):

- (1) Page 1, line 4: The words "human remains, and relics" have been deleted and replaced by the words "human remains, cultural remains, and artifacts" as this is more appropriate and explicit language.
- (2) Page 1, line 8: Language was inserted to require the person responsible for the excavation to prevent further disturbance of the human remains, cultural remains and artifacts and immediately report the discovery to the Department of Land and Natural Resources instead of the State Historic Preservation Officer in order for the language of the bill to remain consistent with the rest of Chapter 6E.
- (3) Page 2: Definitions for "human remains", "cultural remains", "artifacts", "native Hawaiian burial ground", and "sacred shrine" were added to section 6E-2, Hawaii Revised Statutes, because these terms are being used in new sections to be added to Chapter 6E.
- (4) Page 4, line 16: The words "historical properties" have been amended to read "historical and archaeological resources", in order for the language to be consistent with the rest of Chapter 6E.
- (5) Page 4, line 22: The words "temporary and" have been deleted on the basis that, once a property has been declared eligible for inclusion in the Hawaii Register of Historic Places, it would continue to meet the criteria of eligibility until such time that it is modified.
- (6) Page 5, line 22: The bill has been amended to restrict the presence of the State Historic Preservation Officer on the Hawaii Historic Places Review Board as the representative of the State Historic Preservation Office. The State Historic Preservation Officer should not be the administrative officer for the Hawaii Historic Places Review Board as it may constitute a conflict of interest. In addition, the definition of the Officer, in Section 6E-2(5), Hawaii Revised Statutes, relating to the definitions covered in Chapter 6E, has been amended to include the phrase "representative of the officer".
- (7) Page 7, lines 20 and 23: Proposed subsections (7) and (8) have been deleted. At the present time, the Review Board is a voluntary body, with only one clerical position to support its activities, and would be heavily burdened to review and evaluate interpretive plans and programs proposed for use at sites on the Hawaii Register of Historic Places, and to review completed state annual historic preservation fund applications, work programs, and progress reports prior to submission and adoption. Delays may cause the Department's State Historic

Preservation Program to loose federal funds. The proposed language in paragraph (g) which provided the Review Board's role as one of support providing advice, guidance, and professional recommendations to the State Historic Preservation Officer was renumbered as paragraph (7).

- (8) Page 9, line 15: The adoption of rules for live-in parks has been deleted as Chapter 6E is not an appropriate section to address this issue.

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

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2025-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2025-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 165-84 Government Operations and County Relations on S.B. No.
1024

The purpose of this bill is to establish a general liquor license which allows caterers to sell liquor while performing catering services at a location other than the caterer's premises.

Currently, a caterer is prohibited from selling liquor for consumption on a patron's premises unless the patron is appropriately licensed. As a result, many non-licensed patrons must purchase their liquor at retail prices. This bill permits the granting to a caterer of a general license to sell liquor while performing catering functions, provided that the sale is made on the premises of the patron contracting the catering service. It also prohibits performance of catering service for the sale of liquor to commercial establishments unless prior written notice is delivered to the Liquor Commission of the county concerned.

Your Committee heard supporting testimony from Draft Beer Hawaii and finds that this measure will facilitate catering businesses in Hawaii and their patrons by allowing caterers to purchase liquor at wholesale and pass the savings on to the customer.

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. 1024-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1024-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, B. Kobayashi, Solomon and Soares.

SCRep. 166-84 (Majority) Government Operations and County Relations on
S.B. No. 1689-84

The purpose of this bill is to:

1. Require that notice of hearings on applications for liquor licenses be given to shareholders of cooperative apartment projects and current residents of real estate situated within a designated area.
2. Allow protests against the granting of liquor licenses by shareholders of a cooperative apartment project and current residents of real estate situated within a designated area.
3. Allow the governing body for an association of a condominium project or cooperative apartment project to file a protest on behalf of all the members of a project upon two-thirds vote of the total membership of the governing body.
4. Require enforcement of state and county noise and vibration standards

by police officers and inspectors and members of the Liquor Commission.

5. Allow petitions for revocation or suspension of liquor licenses to be filed if the petitions are signed by more than two-thirds of the owners and lessees of record, shareholders of cooperative apartment projects, and current residents of real estate situated within a designated area.

Your Committee received testimony from the Liquor Control Administrator, Department of Finance, Liquor Commission, City and County of Honolulu noting that the notification requirement for "current residents" creates the same problems presented by previous statutory language requiring notice to "lessees of real estate". In 1982, the Legislature amended the phrase "lessees of real estate" to read "lessees of record of real estate" and thereby eliminated difficulties relating to identification of unrecorded lessees. By requiring notice to "current residents", the bill presents the same problem of how to identify the "residents" to whom notice must be given. Your Committee also received testimony from the Department of Health stating that the Noise and Radiation Branch of the Department is presently providing, upon request, necessary assistance to the Liquor Commission and Police Department in taking sound level measurements for enforcement purposes and that such a process is working for the mutual benefit of all involved.

Your Committee finds that, under current law, shareholders of a cooperative apartment project, unlike condominium unit owners, are collectively considered a single body which receives notice of liquor license applications only through the project's property manager. Moreover, this body is given a single dissenting vote in cases of protest. Your Committee further finds that such differential treatment of shareholders of cooperative apartment projects and owners of condominium units is obviated by this bill.

Your Committee has amended the bill to:

1. Eliminate the requirement of notice to "current residents" of real estate within a designated area.
2. Eliminate provisions requiring enforcement by the Liquor Commission and police officers of state and county noise and vibration standards.
3. Include a provision whereby the manager of a cooperative apartment project must provide the applicant, upon receipt of notice of a hearing on an application for a liquor license, with a current list of the names and addresses of shareholders of the cooperative apartment project. If the required list is not provided by the manager, the applicant is not required to notify the shareholders of the cooperative apartment project of the pending application.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1689-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1689-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, B. Kobayashi, Solomon and Soares.
Senator Cobb did not concur.

SCRep. 167-84 Government Operations and County Relations on S.B. No.
2065-84

The purpose of this bill is to prevent persons who keep or maintain any restaurant or other premises where food, drinks or entertainment are sold, and are not licensed by the Liquor Commission, from having, keeping or offering liquor for consumption on the premises.

The current law allows a person to set up an apparent bar or lounge where liquor is "given away" but fees are charged for other services provided by the establishment. This practice enables an establishment to evade the requirement for a liquor license and thus, any regulation by the Liquor Commissioner.

Your Committee received favorable testimony from the Waikiki Improvement Association, Inc. and finds that the bill would correct a loophole in the present

law. The bill was amended on Page 1, line 15, by deleting the phrase "or allow liquor to be carried off the premises", which is in conflict with the original intent of the bill.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 2065-84, as amended herein, and recommends that it pass Second reading in the form attached hereto as S.B. No. 2065-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, B. Kobayashi, Solomon and Soares.

SCRep. 168-84 Economic Development on S.B. No. 1518-84

The purpose of this bill is to revise the powers and duties of the Department of Planning and Economic Development (DPED) in marine affairs.

Act 281, Session Laws of Hawaii, Regular Session of 1982, abolished the Office of the Marine Affairs Coordinator and assigned its functions to DPED. The Ocean Resources Office was organized within DPED to carry out these functions and the ocean resource development programs already at DPED. The establishment of the Ocean Resources Office was approved by the Governor in 1983, with the condition that a request be submitted to the Legislature to revise the language of the powers and duties to prevent functional overlaps between DPED and the Department of Land and Natural Resources (DLNR).

The most significant changes proposed by this bill are amendments to section 201-13, Hawaii Revised Statutes, to delete language relating to the DPED's responsibility in the solicitation and expenditure of federal funds. Such language could be interpreted to place the responsibility for soliciting and expending all federal funds for fisheries with DPED, instead of DLNR, the lead agency for fisheries development. Your Committee finds that though the DPED has not interpreted the statute in this matter, it would be appropriate to amend the statute so that no confusion arises. The Director of DPED is a member of the Fisheries Coordinating Council, and by virtue of this assignment, the Department regularly participates in the review and evaluation of fisheries proposals seeking federal funds.

The bill also makes other language changes in section 201-13 to prevent overlaps between the functions of the DPED and the DLNR.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1518-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 169-84 Economic Development on S.B. No. 1529-84

The purpose of this bill is to restore language to section 171-6, Hawaii Revised Statutes, relating to the powers of the Board of Land and Natural Resources (BLNR), that was inadvertently deleted by Act 170, Session Laws of Hawaii, Regular Session of 1983.

The bill also enables the BLNR to set, charge and collect reasonable fines for violations of the provisions of Chapter 171, Hawaii Revised Statutes, or any rule promulgated thereunder.

Your Committee amended the bill by adding the words "per day and shall be liable for administrative costs incurred by the department and for payment of damages" to the proposed \$500 maximum fine in subparagraph (14) of section 171-6. This amendment will enable the BLNR to treat the Chapter 171 violation in the same manner as encroachment and conservation district violations.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1529-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1529-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 170-84 Economic Development on S.B. No. 1530-84

The purpose of this bill is to enable the Board of Land and Natural Resources (BLNR) to prevent illegal activities on public lands.

The Department of Land and Natural Resources is responsible for the management of State recreation resources in the mountain and shoreline areas. Recently, there have been numerous public complaints about the safety of these areas because of the existence of illegal activities, such as the cultivation of marijuana, on these public lands.

The law presently authorizes the Board to "prevent unlawful occupation of or trespassing on public lands." Under this provision, the department has cleared public lands occupied by unauthorized persons. It is the intent of this bill to further clarify the powers of the BLNR to assist in more effective prosecution of those who are illegally using public lands. This bill provides for the prevention of "illegal activities" on public lands as a duty of the BLNR.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1530-84, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 171-84 Economic Development on S.B. No. 1878-84

The purpose of this bill is to include the commercialization of natural energy resources in the function of the Natural Energy Laboratory of Hawaii (NELH).

The NELH consists of 328 acres of shorefront property at Keahole, between the Kailua-Kona airport and the ocean.

NELH has been the site of many important OTEC-related experiments, including OTEC-aquaculture. It is the only laboratory of its kind capable of providing cold, nutrient-rich water to research and commercial operations. Ongoing projects include both closed-cycle and open-cycle OTEC research, cold water salmon, abalone, metals corrosion, and solar salt pond research.

Your Committee finds that the possibility of commercialization at NELH could make NELH a more attractive research site. By providing a development site to include commercial activities there is a greater likelihood that research at NELH will result in jobs for the people of Hawaii, tax revenues, and a new experience in ocean and natural energy industries. In a project's transition from research to development to commercialization, more and more residents of Hawaii could be trained to assume greater and greater responsibilities in the industry being developed.

Your Committee further finds that it is not the intent that commercialization displace research as the primary mission of the NELH.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1878-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 172-84 Economic Development on S.B. No. 1921-84

The purpose of this bill is to require that all water heaters sold or installed in Hawaii after June 30, 1985, meet the energy efficient standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Incorporated (ASHRAE), Standard 90, as amended.

Testimony in favor of this bill was submitted by the Department of Planning and Economic Development and the Executive Vice-President of PRI Energy Systems. The Uniform Building Codes for the counties of Honolulu, Hawaii and Kauai contain water heater standards which conform to ASHRAE standards. However, there is presently no assurance that all water heaters purchased in these counties conform to ASHRAE standards since the building codes for the three counties prohibits only the installation and not the sale of non-efficient water heaters and no building permit is required when replacing water heaters.

Your Committee finds that the bill promotes energy conservation and enhances efforts to attain Hawaii's goal of energy self-sufficiency. There would be a savings in energy costs to consumers and a reduction of imported petroleum to furnish electricity and gas.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1921-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 173-84 Economic Development on S.B. No. 2179-84

The purpose of this bill is to include the term "corporation" in the definition of "qualified person", and thereby providing that corporations may qualify to enter into project agreements with the High Technology Development Corporation (HTDC).

In earlier drafts of legislation which created the HTDC, corporations were included among those defined as qualified persons but the term "corporation" was inadvertently omitted from the final draft of the statute. Your Committee finds that the statute's exclusion of corporations from those qualified to enter project agreements with the HTDC is contrary to the State's interest in encouraging development of high technology.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2179-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 174-84 Economic Development on S.B. No. 2180-84

The purpose of this bill is to amend the Hawaii Coastal Zone Management Law Chapter 205A, Hawaii Revised Statutes, relating to the administration of Special Management Area (SMA) permits.

It is the intent of this bill to carry out the recommendations of the Department of Planning and Economic Development's study: The Hawaii Coastal Zone Management Law: An Assessment in Response to Act 126, Session Laws of Hawaii 1982. The findings of this study emphasize the opportunity to streamline permit processing and limit SMA permit reviews for development activities that have potential effects relating to coastal resources and hazards.

The bill amends section 205A-22 by:

1. Raising the valuation criterion from \$65,000 to \$100,000. Proposed developments in the SMA valued below the criterion would be issued minor permits if it is anticipated that they will not have any significant adverse environmental or ecological effects. Those projects valued above this criterion would still be required to undergo in-depth review and public hearing through the SMA Use Permit process.

2. Providing new exemptions to the definition of development in the SMA. These exemptions would not require either a minor permit nor an SMA Use Permit. The Counties, however, may exercise their discretion in requiring a permit for activities that are part of a larger development and which may cumulatively have impacts on the environment.

3. Providing for reconstruction of structure that were damaged by natural hazards, provided that they were determined to be in compliance with the National Flood Insurance Program by the County authority. For these cases, an abbreviated system would allow for reconstruction work to proceed without delay.

The bill also amends section 205A-26, Hawaii Revised Statutes, by clarifying the SMA permit requirements to more explicitly allow concurrent processing of SMA Use Permits with general plan and zoning change requests.

Your Committee finds that the amendments to the law provided for in this bill will help to ease the burden of permit processing without compromising the

intent of the coastal zone management program.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2180-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 175-84 Economic Development on S.B. No. 1528-84

The purpose of this bill is to amend Section 188E-1, Hawaii Revised Statutes, to retain the Marine Affairs Advisor, formerly the Marine Affairs Coordinator, as an ex-officio voting member of the Hawaii Fisheries Coordinating Council (HFCC).

The HFCC advises the Board of Land and Natural Resources on fisheries matters and coordinates such matters among the various federal, state and county agencies, and private industry.

In 1982 the position of Marine Affairs Coordinator, an ex-officio member of HFCC under the Office of the Governor, was abolished and subsequently redesignated as the Marine Affairs Advisor. This bill amends Section 188E-1, Hawaii Revised Statutes, to reflect this change.

Your Committee amended the bill to reflect a recent name change by the Pacific Tuna Development Foundation to the Pacific Fisheries Development Foundation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1528-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1528-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 176-84 Consumer Protection and Commerce on S.B. No. 2040-84

The purpose of this bill is to increase the fines assessed on contractors who aid and abet unlicensed contractors.

Your Committee heard testimony in favor of the bill from the Subcontractors Association of Hawaii, the Building Industry Association of Hawaii and the Contractors License Board. Your Committee finds that at present the fines are not sufficiently high to deter licensed contractors who aid or abet unlicensed contractors. While educational efforts, enforcement efforts and inter-industry efforts have been made, the activities of unlicensed contractors continues. Under existing law, licensed contractors are not deterred from risking citations for violating the law or from including the amount of the fine in their price quotations in case they are cited.

Your Committee believes that increasing the fines to approximately double the present amount would aid in deterring potential violators.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2040-84 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 Yamasaki and Henderson.

SCRep. 177-84 Consumer Protection and Commerce on S.B. No. 1956-84

The purpose of this bill is to require a condominium project's managing agent or other person handling a condominium project's funds to provide evidence of a fidelity bond when requested to do so by the Real Estate Commission.

The fidelity bond protects an association of apartment owners against fraudulent or dishonest acts by persons handling a condominium project's funds. The bill also extends the power of the Real Estate Commission to investigate and enjoin violators of section 514A-84, Hawaii Revised Statutes, regarding fidelity bonds posted by managing agents.

Your Committee heard testimony from the Hawaii Council of Associations of Apartment Owners that this bill would provide needed protection for associations of apartment owners. Your Committee also heard favorable testimony from the Real Estate Commission.

Your Committee has amended the bill to clarify that section 514A-84(b) specifically requires managing agents to obtain a fidelity bond whether or not the Commission asks for evidence of such bonding.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1956-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1956-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Chang, Yamasaki and Henderson.

SCRep. 178-84 Consumer Protection and Commerce on S.B. No. 1872-84

The purpose of this bill is to allow apartment owners flexibility in amending Declarations of Horizontal Property Regime (Declarations) with respect to additions, deletions, modifications, and reservations to the property and in subdividing or consolidating apartments.

Currently, amendments to Declarations require the vote or written consent of not less than seventy-five per cent of the apartment owners. Many Declarations permit affected apartment owners or the declarant to make specified amendments to the Declaration without compliance with the cumbersome procedure of approval by seventy-five per cent of the apartment owners. This bill allows for greater flexibility for apartment owners by allowing:

1. Amendments to Declarations which implement additions, deletions, modifications, reservations or merger provisions by a vote or the written consent of only the declarant or such percentage of the apartment owners as is provided in the Declarations.

2. Amendments which subdivide or consolidate apartments and reapportion the common interest appurtenant to the subdivided or consolidated apartments by a vote or written consent of only the apartment owners of the subdivided or consolidated apartments, their mortgagees, and such other percentage of apartment owners as the Declarations may provide.

Your Committee heard supporting testimony from the Horizontal Property Regime Committee of the Hawaii State Bar Association, and finds that this measure will provide flexibility for apartment owners and declarants in amending Declarations and in allowing subdivision and consolidation of apartment units.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1872-84 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 Yamasaki and Henderson.

SCRep. 179-84 Consumer Protection and Commerce on S.B. No. 2157-84

The purpose of this bill is to clarify the definition of the term "pest control operator".

Presently, "pest control operator" is defined as a person who practices pest control as a business and for a fee. This definition allows a person to practice pest control if it is not his prime occupation or if he does it for free. This bill would redefine a pest control operator to mean a person who undertakes or practices pest control.

Your Committee heard testimony that many unqualified and unlicensed persons (such as carpet cleaners and home improvement contractors) offer pest control services in connection with their prime occupation. Since these services are either offered free or pest control is not the entrepreneurs' primary business, these persons feel that they can provide pest control services without first obtaining a pest control operator's license.

Your Committee finds that the new definition of "pest control operator" will make it clear that anyone who practices pest control by the use of general or restricted chemicals for the control or eradication of household pests must obtain a pest control operator's license. Requiring licensure of all those who perform pest control work would be in the best interest of the public as there would be some assurance that the persons working with chemicals are properly qualified.

Your Committee amended the bill by removing references to gender in the amending language and by making technical non-substantive changes to conform the bill to recommended drafting format.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2157-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2157-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yamasaki and Henderson.

SCRep. 180-84 Consumer Protection and Commerce on S.B. No. 1556-84

The purpose of this bill is to amend Section 451A-14.1, Hawaii Revised Statutes, to permit the waiver of a medical examination for anyone intending to purchase a hearing aid device provided that the person is eighteen years of age or older.

Testimony submitted by the Board of Hearing Aid Dealers and Fitters indicates that a prospective hearing aid user should undergo a proper medical examination, and preferably be examined by an otorhinolaryngologist. However, the Board also feels that such an individual has the constitutional right to waive the examination should the person so desire, provided the person is eighteen years of age or older, and has been cautioned by the hearing aid dealer that it is not in his best interests to do so. In order to protect prospective users of hearing devices, the bill provides that a hearing aid dispenser must not actively encourage persons to waive the medical examination and must afford persons with an opportunity to sign a written statement waiving the examination.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1556-84, 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 Chang, B. Kobayashi and Yamasaki.

SCRep. 181-84 Consumer Protection and Commerce on S.B. No. 1717-84

The purpose of this bill is to allow U.S. depository institutions, branches or agencies of foreign banks, and Edge and Agreement Corporations to establish international banking facilities (IBF's) in Hawaii.

The present law appears to authorize only state chartered banks and savings and loan associations to establish IBF's. This measure will encourage the establishment of IBF's in this State and will enhance Hawaii's position as a Pacific-Asian financial center by attracting new companies and new investment capital.

Your Committee heard supporting testimony from the Department of Planning and Economic Development, the Department of Commerce and Consumer Affairs, and the Bank of Hawaii, and finds that IBF's do not conflict with the interests of local financial institutions because IBF's can only accept deposits from and extend loans to non-resident foreign corporations. IBF's are strictly prohibited from any domestic dealings except with other IBF's or the parent bank of the IBF and then only to the extent that the funds underlying these transactions represent off-shore, foreign domiciled monies. This measure will encourage the creation of IBF's in Hawaii by bringing Hawaii law into conformity with Regulation D of the Federal Reserve Board (12 C.F.R. Part 204). Twenty other states have already passed similar legislation.

Your Committee finds that the establishment of IBF's in Hawaii will attract increased deposits from abroad and encourage travel to the State by these

depositors. Their presence will benefit the economy, create employment opportunities and provide tax revenues.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1717-84 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 Chang, B. Kobayashi and Yamasaki.

SCRep. 182-84 Consumer Protection and Commerce on S.B. No. 1537-84

The purpose of this bill is to exempt any security for which a registration statement has been filed with the Securities and Exchange Commission (SEC) under the Federal Securities Act of 1933 from registration with the State Commissioner of Securities and to repeal the existing filing requirements for such securities.

It is the intent of this bill to reduce the regulatory burden on the securities industry and the work load of the Department of Commerce and Consumer Affairs (DCCA). The DCCA presented testimony that under federal law, registration of a security is scrutinized by the SEC and includes safeguards, such as sales through registered broker/dealers, underwriting of the issue by an investment banking or broker/dealer firm, and coverage by the Securities Investor Protection Corporation. Therefore, parallel registration with the State is redundant and unnecessary.

By eliminating the task of keeping and maintaining registration records the Commissioner of Securities could devote more time to consumer problems and conduct a faster review of franchise registrations. Although the process of securities registration will be more efficient the DCCA will still have the responsibility and authority to investigate and prosecute any violation involving securities fraud or misrepresentation under section 485-25, Hawaii Revised Statutes.

Your Committee made technical amendments to the bill which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1537-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1537-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, B. Kobayashi and Yamasaki.

SCRep. 183-84 Consumer Protection and Commerce on S.B. No. 1746-84

The purpose of this bill was to increase from ten per cent to twenty-five per cent the mandatory insurance premium reduction available to policyholders of motorcycles, motor scooters, and vehicles with less than four wheels who have successfully completed a safe driving course approved by the Director of Transportation.

Your Committee heard conflicting testimony from Street Biker's United, the Hawaii Insurers Council, the Department of Commerce and Consumer Affairs, and the Motorcycle Safety Foundation, and after due consideration has decided to make major substantive amendments to the bill in order to provide for a possible twenty-five per cent reduction in the cost of insurance premiums while leaving the mandatory ten per cent reduction for completing a safe driving course in place. The amendments are as follows:

- (1) Delete the proposed amendment to section 294-13, Hawaii Revised Statutes, which provided for an increased mandatory reduction of twenty-five per cent.
- (2) Section 294-11, Hawaii Revised Statutes, is amended to increase to \$2,500, the maximum amount deductible from no-fault benefits payable for injury to a person which occurs while the insured is operating or is a passenger on a vehicle with less than four wheels.

(3) A new subsection (o) is added to section 294-13, Hawaii Revised Statutes, which provides that an insurer may offer a premium reduction of up to five per cent when an operator renews a no-fault policy covering a motorcycle, motor scooter, or vehicle with less than four wheels, and that the insurer may also provide a reduction of not more than ten per cent to an operator who purchases a no-fault policy covering more than one of the above mentioned vehicles.

Your Committee finds, based on the discussion and data presented regarding motorcycle safety, that the increased deductible and premium reductions provided for in this bill as amended, can provide some relief for motorcycle operators in the form of reduced premiums. In addition, your Committee intends to introduce at least one resolution seeking an interim study to develop relevant information pertaining to this measure and similar legislation currently under consideration.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1746-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1746-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, B. Kobayashi, Uwaine and Yamasaki.

SCRep. 184-84 Consumer Protection and Commerce on S.B. No. 1741-84

The purposes of this bill are to extend the life of the board of chiropractic examiners for six years under the sunset review process, require candidates for licensure as chiropractors to have graduated from an educational institution accredited by the Council on Chiropractic Education, and establish guidelines to improve the practical demonstration examinations of candidates for licensure.

At the first of two public hearings on this bill, your Committee quickly became aware that the issue of accreditation of chiropractic institutions from which a candidate for licensure must have graduated was central to the disposition of this bill. The chiropractic community in Hawaii and elsewhere is sharply "divided philosophically into two groups", as the sunset evaluation report of the legislative auditor notes. (Legislative Auditor, Sunset Evaluation Report, Chiropractic, Report No. 84-3, January, 1984.)

The "straight" group, according to one witness, holds that "subluxation (a vertebra that is misaligned to its adjacent segment in such a way as to disturb nerve function) interferes with the body's innate striving to maintain or regain its own health". This group restricts its practice to treating this problem.

The "mixer" group, on the other hand, endorses a philosophy which holds that wider aspects of the human physical condition need be noted in an evaluation of physical problems and their chiropractic treatment. The philosophy of the "mixer" group is in line with that of the Council on Chiropractic Education, which requires the institutions it accredits to maintain a broader curriculum than is typical of institutions which favor the "straight" philosophy.

The legislative auditor recommended that candidates for licensure be graduates of institutions accredited by the Council on Chiropractic Education because "chiropractors are primary health care practitioners who must be able to make informed decisions about the health care needs of their patients. The Council on Chiropractic Education considers it vital for chiropractors to have skills in diagnosis so that chiropractors, as portal of entry health care providers, can determine whether chiropractic care is appropriate or whether the patient should be referred to alternate health care". (Letter from the legislative auditor to the Chairman of your Committee, February 24, 1984.)

At its first hearing on this bill, your Committee was informed that the Hawaii State Chiropractic Association had endorsed the bill as drafted, which recognized only those institutions accredited by the Council on Chiropractic Education. Upon challenge to this testimony, your Committee requested the association to consider this matter further and report back to your Committee. By a letter dated February 29, 1984, the association informed your Committee that its members had approved a motion to recognize institutions accredited by both the Council on Chiropractic Education and the Straight Chiropractic Academic Standards Association.

In light of this information and in consideration of the extensive testimony presenting both sides of the philosophical issue, your Committee elected to amend this bill so that an applicant for licensure may be a graduate of an institution accredited by either the Council on Chiropractic Education or by the Straight Chiropractic Academic Standards Association.

Your Committee's underlying concern is for the consuming public as health care recipients. The board of chiropractic examiners is vested with authority to monitor and manage the practice of chiropractic, demanding adherence to the highest of professional standards. Indicative of this commitment to the provision of sound, informed health care is your Committee's decision to require chiropractors to obtain special approval from the board to use physiotherapy modalities in their practice. Your Committee has amended this bill to require applicants for licensure who wish to use physiotherapy modalities to have had specific education in the use of these techniques and to pass a written and a practical examination to the satisfaction of the board. In addition, the board has been empowered to require a written or practical examination before granting approval to any currently licensed chiropractor to use physiotherapy modalities. Your Committee has added the unauthorized use of physiotherapy modalities to the grounds for suspension of a license.

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

Your Committee feels that, in view of the powers of the board to regulate the practice of chiropractic and to maintain the highest professional standards and the intention of your Committee to monitor closely the practice of chiropractic with particular attention to the consuming public, this bill, as amended, speaks to the inherent problems in as equitable a manner as possible.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1741-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1741-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Chang, Yamasaki and Henderson.

SCRep. 185-84 Consumer Protection and Commerce on S.B. No. 1552-84

The purpose of this bill is to provide the Real Estate Commission with authority to more effectively regulate the real estate industry.

Since 1974, the Real Estate Commission by rule has prohibited the use of a trademark, corporate name or partnership name that contained the name, initials or nickname of an unlicensed person or salesman. The Attorney General, however, rendered an opinion that the Commission was not authorized to adopt such a rule.

This bill authorizes the Real Estate Commission to regulate real estate company names to insure that an individual whose name is used in a company name is licensed as a broker. This would assure the consumer that the person whose name is being used in the company name is associated with the company and possesses the experience and necessary qualifications required of licensed brokers.

The bill also extends the authority of the Real Estate Commission to discipline real estate licensees. Presently, the Commission's authority is limited to Chapter 467 of the Hawaii Revised Statutes on real estate brokers and salesmen. Thus a licensee could violate chapter 484 (Subdivision), chapter 514A (Condominium), chapter 514E (Timesharing) and chapter 515 (Discrimination in Real Property Transactions) and continue to hold a license if the licensee's actions do not fall within any of the prohibited conduct in Chapter 467 (the licensing chapter). This bill would extend the Commission's authority to discipline licensee violations of Chapters 484, 514A, 514E and 515.

Finally, this bill clarifies the penalty for violating the aforementioned chapters of the Hawaii Revised Statutes by establishing \$500 as the fine for each violation rather than as an aggregate amount.

Your Committee amended the bill by making technical nonsubstantive changes

to conform the bill to recommended drafting format and to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1552-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1552-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yamasaki and Henderson.

SCRep. 186-84 Consumer Protection and Commerce on S.B. No. 1642-84

The purpose of this bill is to strengthen and clarify the law on the practice of psychology in the State of Hawaii.

This bill is the product of extensive interim research and study by a special study committee composed of members of the psychological community and health care consumer representatives. The special study committee was established in 1983 following legislative action on Senate Bill No. 711, relating to practicing psychologists, which was enacted as Act 95, Session Laws of Hawaii 1983. Although Act 95 represented a major step in updating the law on psychology, much remained to be done, and the Chairman of your Committee requested establishment of the special study committee for that purpose.

After many meetings, the special study committee prepared and submitted its refinements of the law on psychology, which became the foundation of this bill. During the evaluative interim process, your Committee maintained its interest and oversight but avoided intrusion, preferring to encourage the interaction of the representative group members, confident that their efforts would reflect their several viewpoints in a manner most nearly suitable to all.

As an examination of this bill indicates, confidence in the special study committee was well placed, and your Committee commends to you those members of the special study committee who gave freely of their time and expertise.

In its hearing on the bill, your Committee observed that one principal issue emerged for further resolution: the question of academic preparation and qualification of those persons who would sit for the licensure examination in the field of psychology and accreditation of their academic institutions.

After considering at length the several aspects of accreditation, your Committee elected to conform to the standards required by the regional accrediting organizations. As a result, the bill has been amended to include in the definition of "approved program" the program of an institution which is a recognized candidate for accreditation. The bill also has been amended to provide that an applicant for licensure may sit for the examination if the applicant completed the requisite academic training within the two-year period prior to the date the institution attained the status of candidacy for accreditation. The applicant may sit for the licensure examination as long as the candidacy for accreditation has not lapsed. Another amendment relates to the program of any local institution. Under the bill, as received, the board of licensure for practicing psychologists was to determine if the program meets the requirements for licensure. The bill has been amended to delete the responsibility of the board and, instead, require the institution to be accredited or a recognized candidate for accreditation.

Your Committee also has made other amendments. Among the substantive amendments are the following.

Language which was inadvertently deleted from section 465-7, Hawaii Revised Statutes (HRS), by Act 95 has been replaced. Specifically, the language "meets the requirements set forth in paragraphs (1) and (2) or (3) and (4)" has been inserted following the word "applicant". As the law now stands, an applicant for licensure must meet all requirements of section 465-7, HRS. The amendment makes clear that each applicant must pass the examination, but that the prerequisite to the examination is professional competence and demonstrated knowledge in psychology and the holding of a doctoral degree from an approved program or the holding of a diplomate certificate from the American Board of Professional Psychology.

The bill, as received, proposed deletion of the requirement of senatorial confirmation for members of the board. The bill has been amended to retain that requirement.

The provision on reciprocity also has been amended because of the change to the definition of "approved program". Language has been inserted to retain the provision that a license under reciprocity may be issued to an applicant who has a doctoral degree from an approved program of a fully accredited institution, but not from an institution which is a candidate for accreditation.

Satisfactory performance under an internship program in the field of psychology is included in the bill as a condition precedent to taking the licensure examination. Establishment of the specific standards for the internship program has been delegated to the board.

In addition, section 26-9, section 481B-11, and rule 504.1 of the rules of evidence have been amended to conform to terminology changes proposed by this bill.

Your Committee is happy to observe that the board, formerly known as the board of certification for practicing psychologists, which had substantially limited its adoption of new rules while the interim study project was underway, has resumed its preeminent role in the oversight of the profession. Your Committee expresses the hope that the board will make the oral examinations of candidates more comprehensive and searching than they have been.

One matter requires special comment: your Committee is concerned with the fact that a number of state employees serve as clinical psychologists but are unlicensed in that capacity. This derogates from the philosophy and intent of legislation which seeks to ensure the quality of health care services available to the people of Hawaii. Your Committee urges all persons employed by state and county governments in the practice of clinical psychology to obtain licenses, recalling that in the recent past it has expressed similar concern about speech pathologists and audiologists in government employ and moved to require their licensure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1642-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1642-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Chang, Yamasaki and Henderson.

SCRep. 187-84 Transportation on S.B. No. 1668-84

The purpose of this bill is to clarify an ambiguity in the law as to whether or not a vehicle is considered abandoned.

Presently, a vehicle left unattended for a continuous period of more than twenty-four hours and which is unlawfully on a public highway, other public property or private property, is considered to be abandoned.

The term "left unattended", however, has been construed by the courts to mean that if a chalk mark is erased or the vehicle has been moved an inch, then the vehicle is not considered abandoned. Therefore, persons can effectively circumvent the law by erasing chalk marks, or by moving the vehicle a few inches.

This bill would specify that a vehicle is considered "abandoned" if it is defined to be abandoned by an ordinance of the county in which the vehicle is located and that in the absence of such ordinance, a vehicle is abandoned if left unattended for a period of more than twenty-four hours.

This bill also provides a penalty of a \$500 fine or thirty-day imprisonment or both for violating Chapter 290, Hawaii Revised Statutes.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1668-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 188-84 Education on S.B. No. 1605-84

The purpose of this bill is to designate the third Monday in January as a state holiday in honor of Dr. Martin Luther King Jr.

Dr. King, long regarded as a leader of the civil rights movement, winner of the Nobel Peace Prize, and one of the great civic and political leaders of our time was an inspiration to the many ethnic minority groups that comprise our nation, especially the Indian, Eskimo, and Hawaiian indigenous groups which have achieved political prominence following in the footsteps of Dr. King.

Although there are certain cost implications to the State by establishing another holiday, the contributions made by Dr. King, the principles and ideals he stood for, and the guidance and hope he provided to millions of Americans in his efforts to bring peace to this nation should not go unrecognized by the people of this State.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1605-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 189-84 Human Resources on S.B. No. 2123-84

The purpose of this bill is to provide for the establishment of a citizens advisory committee to study and advise the legislature on the role of the State and counties and various private agencies in the delivery of human services to the people of Hawaii.

Two current issues require review. One issue is the roles and responsibilities that the State and counties have in the delivery of human services. The other issue is the role and responsibilities of private agencies in the provision of human services and the development of state policies to guide which kinds of programs should be conducted directly by government agencies and which kinds of programs should be conducted by private agencies.

This bill calls for the creation of an eleven member citizens advisory committee which shall submit a report of its findings and recommendations to the legislature prior to the convening of the Regular Session of 1985.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2123-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 190-84 Government Operations and County Relations on S.B. No. 1835-84

The purpose of this bill is to allow consumers to ship twelve gallons of wine or beer into Hawaii without the necessity of proving that the same wine or beer is not available in the State.

Presently Section 281-33, Hawaii Revised Statutes, permits a person coming into the State to bring with him or her one gallon of liquor. Furthermore, Section 281-33.1 permits a person to obtain a permit to receive a shipment of up to five gallons of liquor from outside the State in three alternative circumstances:

- 1) An unsolicited gift of not more than 3.2 gallons (Section 281-33.1(b));
- 2) An importation as part of household goods (Section 281-3.1(c)); or
- 3) If the brand is not available in the State of Hawaii, provided that the manufacturer would be willing to list prices for that brand.

Since none of these circumstances apply in the ordinary case, the consumer who wants to bring more than one gallon of wine into this State or who for convenience wants to ship any amount of wine into this State will not be able to do so.

It has been brought to your Committee's attention that local retail prices for good quality California wines are substantially higher than California retail prices for the same wine, in one case more than one hundred per cent higher. Your Committee does not believe that government control of liquor should prevent consumers from avoiding such prices by seeking a competitive source for a small amount of wine or beer.

Your Committee has amended the bill to limit to five gallons, which is approximately two cases, the amount of wine or beer for which a shipment permit can be issued. Your Committee notes that Section 281-33.1(f) limits a household to one such permit per year.

In order to assure that consumers do not avoid Hawaii liquor taxes by having liquor shipped from the mainland, your Committee has also amended the bill to require a permit fee equal to and instead of the liquor use tax that would otherwise be imposed by Section 244-4, Hawaii Revised Statutes. The permit fee will enable the State to collect the required amount in an efficient way at the time of importation, rather than have to wait until the use of the wine or beer, as Section 244-4 would require.

Your Committee further 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. 1835-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1835-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, B. Kobayashi and Soares.

SCRep. 191-84 Government Operations and County Relations on S.B. No.
2124-84

The purpose of this bill is to amend various subsections of Section 281-33.1, Hawaii Revised Statutes, to strengthen existing restrictions on the importation of liquor.

This bill amends Section 281-33.1 (a), Hawaii Revised Statutes, by adding the phrase "or nineteen liters" to reflect the fact that many types of liquor are measured by the metric system. Also, this bill deletes reference to Section 281-43, which has been repealed.

Further, this bill adds a new provision to the law that restricts the transport of liquor into this State by a common carrier to only those persons who have a valid manufacturer's or wholesale dealer's license or to any person authorized by permit pursuant to Section 281-33.1 (a).

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 2124-84 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 Abercrombie, B. Kobayashi and Soares.

SCRep. 192-84 Housing and Urban Development on S.B. No. 1569-84

The purpose of this bill is to provide that all expenses and fees of arbitration proceedings incurred by the Hawaii Housing Authority (HHA) or its designee in administering lease rent renegotiations under chapter 519, Hawaii Revised Statutes, shall be paid equally by lessors and lessees.

Currently, section 519-2(b), Hawaii Revised Statutes, provides that in the event parties to a lease involving residential lots are unable to achieve an agreement during renegotiation, the HHA or its designee shall arbitrate and its findings shall be binding and conclusive. Although lease documents generally state that lessees and lessors shall be responsible for their pro rata share of all costs incurred during any arbitration proceedings, the absence of specific language in the law may be misconstrued to mean that the State should bear the burden of all such expenses.

Your Committee finds that the bill in its present form does not fully address the issue of payment by lessees and lessors of their pro-rata share of the expenses and fees. Therefore, your Committee has amended the bill to:

- (1) Require advance deposits of projected expenses and fees;
- (2) Provide for loss of certain rights and remedies by a party who does not make payments; and
- (3) Define "arbitration proceedings" to clarify what services are to be paid for by lessors and lessees.

Your Committee further amended the bill by incorporating similar amending language in section 519-3(b), Hawaii Revised Statutes, relating to leases of real property by cooperative housing corporations.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1569-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1569-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 193-84 Housing and Urban Development on S.B. No. 1704-84

The purpose of this bill is to amend the definition of cooperative housing corporations to be consistent with the definition as set forth by the Internal Revenue Service.

Your Committee finds that this bill would conform our law with current federal law and allow cooperatives which have some form of commercial activity (e.g., a launderette) to still qualify for lease rent renegotiation assistance under Chapter 519, Hawaii Revised Statutes.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1704-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 194-84 Housing and Urban Development on S.B. No. 1707-84

The purpose of this bill is to amend the definition of public lands under section 171-2, Hawaii Revised Statutes, to exclude lands to which the Hawaii Community Development Authority holds title.

Currently, under chapter 206E, Hawaii Revised Statutes, the Hawaii Community Development Authority (HCDA) is authorized to acquire, reacquire or contract to acquire or reacquire by grant or purchase, real, personal, or mixed property or any interest therein and to own, hold, clear, improve, rehabilitate, sell, assign, exchange, transfer, convey, encumber lease or otherwise dispose of the same.

This bill, by designating lands held by the HCDA as an exception to the definition of public lands, eliminates the necessity of approval by Board of Land and Natural Resources of real estate transactions of the HCDA.

The HCDA testified that land acquisition will be needed for roadway widening, parks and parking garages and other public purposes within the Kaka'ako district and that this bill will provide the HCDA with flexibility and reduce the processing time of these acquisitions and other real estate transactions.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1707-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 195-84 Housing and Urban Development on S.B. No. 1710-84

The purpose of this bill is to allow the Department of Hawaiian Home Lands to develop multi-family dwelling units on its residential lands.

Presently, the Department of Hawaiian Home Lands grants residential homestead leases only in the form of subdivided lots. This bill allows the Department to grant to native Hawaiians leases in individual units of multi-family structures. Multi-family dwelling units would provide a satisfactory development alternative because site improvement cost per unit would be less, allowing more homestead awards for the same amount of funding. In addition, multi-family dwelling units will satisfy the changing needs of the Department's native Hawaiian beneficiaries, especially among the elderly native Hawaiians and young working couples in search of homes that are affordable and more easily maintained. Finally, the concept of higher densities will allow the development of more housing on a given amount of land in preferred locations.

Your Committee finds that this proposal will contribute greatly to the Department's goal of accelerating homestead awards and also to the priority housing objectives of the Hawaii State Plan as expressed in section 226-19, Hawaii Revised Statutes.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1710-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 196-84 Housing and Urban Development on S.B. No. 1711-84

The purpose of this bill is to allow the Department of Hawaiian Home Lands the option to enter into contracts for maintenance of its water systems and for billing and collecting water fees from consumers.

The Department has been operating its water system on Molokai since the 1930's and is currently developing a water system to service its residential subdivision at Anahola on Kauai. The present law provides that the water systems in the exclusive control of the department shall remain under its exclusive control. This bill will allow the Department of Hawaiian Home Lands (DHHL) to contract the services of local water supply departments or others to perform tasks related to water system maintenance and customer servicing. The Department would retain overall authority and responsibility through its control over allowed users and pricing, as well as through terms and conditions that would be incorporated into contracts.

It would be the responsibility of the Department to assure that contracting out the maintenance and service functions would reduce costs to its beneficiaries and the State, without sacrificing safety or efficiency.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1711-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 197-84 Housing and Urban Development on S.B. No. 1713-84

The purpose of this bill is to allow the Department of Hawaiian Home Lands (DHHL) to make licenses for mercantile establishments available to all native Hawaiians.

Section 207(c) of the Hawaiian Homes Commission Act, as currently worded, specifies that mercantile licenses be granted only to current lessees of the DHHL. Therefore, native Hawaiians who are not current lessees are precluded from obtaining such licenses. This specificity is incongruous with the purpose of the Act, which is to bestow benefits upon as many native Hawaiians as possible.

Your Committee finds that this bill will open the opportunity for obtaining a mercantile license to a greater portion of qualified beneficiaries.

Your Committee made a technical nonsubstantive change to conform the bill to the existing statute.

Your Committee on Housing and Urban Development is in accord with the

intent and purpose of S.B. No. 1713-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1713-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 198-84 Housing and Urban Development on S.B. No. 1811-84

The purpose of this bill is to correct an inconsistency in the definition of "project cost" in section 206E-2, Hawaii Revised Statutes and to expand the coverage of persons eligible to receive relocation assistance from the Hawaii Community Development Authority (HCDA) to those that have been displaced by private action.

Currently, under Section 206E-2, Hawaii Revised Statutes, relocation costs would be included in project cost only if such costs for relocation are in accord with Chapter 111, Hawaii Revised Statutes, the State relocation assistance law. Section 206E-10.5, Hawaii Revised Statutes, however, requires the Authority to provide for relocation notwithstanding any law to the contrary. Therefore, the proposed amendment would remove this inconsistency by deleting the reference to Chapter 111, Hawaii Revised Statutes, thereby permitting the Authority's relocation costs to be included in project costs.

As currently written, Section 206E-10.5, Hawaii Revised Statutes, limits relocation assistance to those displaced by governmental action. This bill would amend this section to permit the Authority to provide relocation assistance, short of direct monetary payments, to persons, families, and businesses displaced by private development action, and to make temporary relocation facilities available to displacees, provided that government action displacees are afforded priority to the use of such facilities.

Your Committee amended the bill by deleting the word "may" in the proposed language of section 206E-10.5(b) and substituting the word "shall" and by inserting the phrase "approved by the authority" as a condition to obtaining assistance. Your Committee finds that the State should provide relocation assistance to residents and businesses displaced by private action in relocating and that the displacement should be the result of a development approved by the HCDA.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1811-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1811-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 199-84 Housing and Urban Development on S.B. No. 1822-84

The purpose of this bill is to allow the office of Hawaiian affairs (OHA) to receive all real property set aside for native Hawaiians and Hawaiians by way of class action lawsuits brought in the State of Hawaii.

Your Committee finds that although section 10-5, Hawaii Revised Statutes, gives general authorization for OHA to receive real property, this bill will expressly authorize OHA to receive class action realty and avoid misinterpretation by a court which could construe chapter 10, Hawaii Revised Statutes, as being silent with regard to class action property. Your Committee believes that this bill will assist OHA in fulfilling its constitutional and statutory obligations toward the betterment of conditions for all Hawaiians.

Your Committee has amended this bill by stipulating that real property set aside by way of class action lawsuits shall be held in a separate trust by OHA.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1822-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1822-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 200-84 Housing and Urban Development on S.B. No. 2247-84

The purpose of this bill is to permit the Hawaii Housing Authority (HHA), to develop housing projects which are exempt from development or general plans adopted by the various counties. The bill also provides that final plans and specifications of an HHA project shall be deemed approved by a county's legislative body if the final plan and specifications do not substantially deviate from the preliminary plans and specifications.

Currently, Section 359G-4.1, Hawaii Revised Statutes, provides that the HHA or County housing agencies may develop or assist in the development of housing projects which shall be exempt from all State and County zoning and construction standards for subdivisions, development and improvement of land and the construction of units.

There is presently disagreement whether or not this language allows for the waiver or preemption of existing plans, such as the County General Plan and Community Development Plans, if the project is not consistent with those plans.

Your Committee finds that to require HHA projects to proceed through a duplicative and lengthy procedure to obtain a planning exemption is not consistent with the intent of the statute. This bill clarifies that intent of the law.

Currently, the final plans and specifications cannot deviate at all from the preliminary plans and specifications. Your Committee received testimony which stated that in any housing project, it is inevitable that field conditions will necessitate minor changes in the plans as work progresses. The bill recognizes this reality and therefore would allow these minor changes without requiring that the final plans and specifications be reconsidered by the county legislative body.

Your Committee amended the bill to delete the words "approved by the legislative body," in line 2, page 3 of the bill as received as it is not part of the current statute.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 2247-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2247-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 201-84 Housing and Urban Development on S.B. No. 2248-84

The purpose of this bill is to exempt experimental and demonstration housing projects developed by the counties from the development or general plans adopted by the various counties and to eliminate the requirement that final plans and specifications of the projects be approved by the respective county councils.

Your Committee heard favorable testimony from the Office of Housing and Community Development, County of Hawaii, stating that by requiring only preliminary plans and specifications for approval by the county councils, the exposure of a project in terms of costs and risks can be reduced. In addition, by providing an exemption for experimental and demonstration housing projects from the general and development plans of the various counties, housing projects can be developed and studied without the limitations of existing planning standards.

Your Committee finds, that by reducing the cost and risk factors involved in the preparation of final plans and specifications and by providing an additional exemption for such projects, S.B. No. 2248-84 expedites the process for developing experimental and demonstration housing projects as was the initial intent of Section 46-15, Hawaii Revised Statutes.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 2248-84, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 202-84 Housing and Urban Development on S.B. No. 2251-84

The purpose of this bill is to expand the applicability of the Rental Assistance Program under the Hawaii Housing Authority and to convert the Rental Assistance Fund to a revolving fund.

Currently, the law requires that eligible projects be financed through Part II of chapter 356, Hawaii Revised Statutes, or by the federal government pursuant to any program of the National Housing Act of 1934, as amended, in order to receive rent subsidies through the State Rental Assistance Fund.

It has been brought to the attention of your Committee that certain federal programs, including Farmers Home Administration and a number of HUD programs, were not established pursuant to the U.S. Housing Act of 1934 or any of its amendments. The broadening language in the bill would allow any federally-assisted rental housing projects to qualify under the Rental Assistance Program.

Your Committee heard testimony from the Hawaii Housing Authority that they have been advised by the State Department of Budget and Finance that unless the Rental Assistance Fund is converted to a revolving fund, the \$2 million previously appropriated to the fund will lapse on June 30, 1984.

Your Committee has made technical changes to the bill which have no substantive effect.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 2251-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2251-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 203-84 Health on S.B. No. 2212-84

The purpose of this bill is to authorize the Director of Health to take precautionary measures including actions to embargo, detain, or remove products from the market, or declare a quarantine when a potential health hazard exists.

Following a recent Department-initiated recall of muffin and cake mixes contaminated with the pesticide ethylene dibromide (EDB), a national food conglomerate initiated litigation which questioned the Director of Health's authority to withhold a product from the market because of suspected health hazards. Your Committee finds that if the courts determine that the Director lacks this authority, the Director will be unable to protect the State from products known or suspected of being contaminated with a potentially harmful substance.

Your Committee heard testimony from the Hawaii Food Industry Association regarding the heavy financial burden product embargoes, detentions, and recalls place on local food processors, which could lead to bankruptcy. Your Committee amended the bill to adopt the recommendation of the Hawaii Food Industry Association that new language be inserted to provide for a 48-hour period during which the Department of Health must either prove the existence of a health hazard or rescind its action on the product in question.

Your Committee further amended page 1, line 10 of the bill, as received, to delete the words "deemed to be" as it gives the Director of Health greater discretionary powers than was originally intended.

Your Committee also 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. 2212-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2212-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 204-84 Health on S.B. No. 1512-84

The purpose of this bill is to enable the Department of Health to adopt

changes made by the federal government to pesticide tolerances and action levels for food contaminants without following Chapter 91; give the Department of Health authority to require a person to keep records relating to the manufacture, distribution, and sale of consumer commodities; and clarify that penalties imposed under Chapter 322 and 328, Hawaii Revised Statutes, may be imposed by the Director of Health and not the courts.

Pesticide tolerances and action levels for food contaminants are continuously being revised by the federal government pursuant to 40 Code of Federal Regulations, Part 180, "Tolerances and Exemptions from Tolerances for Pesticides Chemicals in or on Raw Agricultural Commodities," and Food and Drug Administration Compliance Policy Guides. Since revisions may occur weekly, it is not feasible for the Department of Health to adopt each revision pursuant to Chapter 91. This bill would virtually eliminate any delay in establishing revised tolerances or action levels, thereby alleviating any adverse impact on the health and welfare of the consumer.

Presently, the Department of Health has authority to demand records relating to the manufacture, distribution, and sale of consumer commodities, but no authority to require that such records be kept. These records become important when a commodity is contaminated since the information provided by manufacturing records can determine the cause of the contamination and prevent future contamination. In addition, good distribution records will enable the effective recall of a contaminated commodity.

Finally, this bill clarifies that the penalties for any violations are administrative penalties to be imposed by the department rather than the courts.

Your Committee amended the bill to:

(1) Require that the Director of Health adopt rules in order to require the keeping of records; and

(2) Make clarifying language changes to the provisions relating to the establishment of tolerance levels and regulatory or action levels without regard to Chapter 91, Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1512-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1512-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 205-84 Health on S.B. No. 1515-84

The purpose of this bill is to clarify the definition of brain death.

Currently, the law relating to determination of death needs updating to coincide with the Uniform Determination of Death Act and to clarify the concept of brain death. This bill makes these corrections by deleting the phrase "irreversible cessation of all functions of the entire brain, including the brain stem" from subsection (a) of section 327C-1, Hawaii Revised Statutes, and by substituting the phrase "all functions of the entire brain, including the brain stem" for the words "brain function" wherever they occur in subsections (b) and (c).

Your Committee heard favorable testimony from the Acting Deputy Director of Health and agrees with the Acting Deputy Director as to the need for this bill. Your Committee finds that reference to brain death in subsection (a) of section 327C-1, Hawaii Revised Statutes, is of no force and effect since subsection (a) applies only to the usual criteria of death, namely, cessation of spontaneous respiratory and circulatory functions. Instead, definitions of brain death should be included in subsections (b) and (c) since these subsections refer to determination of death when "artificial means of support preclude a determination that respiratory and circulatory functions have ceased." Your Committee finds this bill clarifies this inconsistency in the law.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1515-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 206-84 Health on S.B. No. 1516-84

The purpose of this bill is to allow the Department of Health to issue a new birth certificate for a child when a court determines that a parent named on the birth certificate is not the actual parent and to include in section 338-17.7, Hawaii Revised Statutes, all cases in which a new birth certificate may be prepared.

Occasionally, the husband of a woman who has had a child, or a man who has acknowledged paternity of a child or has been adjudged the father of a child, is subsequently proven not to be the father. If the child is then legitimated with another man as the father, a new birth certificate is prepared showing the second man as the father and the original certificate and all supporting records and documents are placed in a sealed file. However, if there is no subsequent legitimation and, hence, a new birth certificate is not prepared, then the name of the man who is not the father remains on the certificate. This can be a source of confusion and may even result in legal action.

Your Committee heard testimony by the Department of Health and finds that this bill is necessary to enable the department to issue a new birth certificate following a finding that a parent shown on a birth certificate is not a parent of the child. Your Committee also notes that the bill consolidates into one subsection of Section 338-17, Hawaii Revised Statutes, all of the bases for issuing a new birth certificate.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1516-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 207-84 Health on S.B. No. 1585-84

The purpose of this bill is to restructure the membership of the Commission on the Handicapped.

Currently, the Commission consists of fifteen voting and six ex-officio non-voting members all of whom are appointed by the Governor, and a quorum is achieved by the presence of eight of the voting members. The non-voting members are the Directors of Health, Social Services, Labor and Industrial Relations, and Personnel Services, as well as the Superintendent of Education and the President of the University of Hawaii. However, a recent Attorney General's opinion indicates that according to the language of the statute the membership should actually be twenty-one appointed members, and that the six non-voting members are designated by statute rather than appointed by the Governor. On that basis a quorum would have to be fourteen of the twenty-seven total members, and if only two of the current fifteen voting members failed to appear at a meeting, the Commission would be unable to conduct its business.

This bill remedies the situation by fixing the appointed membership at fifteen while retaining the six non-voting members specified by statute. The bill also adds the Director of Transportation and the Comptroller to the Commission as additional non-voting members because the Commission's policy decisions often affect their departments.

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. 1585-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1585-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 208-84 Health on S.B. No. 1586-84

The purpose of this bill is to allow the Director of Health to purchase needed

mental health services from private for-profit organizations when it is in the public interest to do so.

Currently, the Director may only enter into agreements with private nonprofit groups, institutions, or corporations. Your Committee heard favorable testimony by the Department of Health, and finds that this bill will allow the Director greater latitude in discharging the duties of the Department of Health by entering into agreements for needed services which might not otherwise be available.

Your Committee has amended the bill 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. 1586-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1586-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 209-84 Health on S.B. No. 1842-84

The purpose of this bill is to update the controlled substance schedules to conform with that of the the federal government and to implement a strengthened prescription system.

This bill will bring the schedules of controlled substances in line with that of the federal law as required by Chapter 329 of the Hawaii Revised Statutes. The bill further adds synthetically produced cocaine to the schedules, clarifies the legal definition of cocaine, and requires practitioners who issue prescriptions for schedule II controlled substances to use official pre-printed prescription forms issued by the Department of Health.

Your Committee heard favorable testimony from the Deputy Director for Environmental Health indicating that the official pre-printed prescriptions would decrease forgeries, allow for better input into the State's prescription computer, making the detection of stolen prescriptions easier, and preventing unauthorized practitioners from writing prescriptions. The Deputy Director also stated that the current definition of cocaine can cause cases to be dismissed in court and that the Department of Health supports the definition in the bill.

Your Committee has amended the bill to correct the spelling of tomazepam and methylphenobarbital in section 3 of the bill and to make technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1842-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1842-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 210-84 Health on S.B. No. 2136-84

The purpose of this bill is to provide an administrative procedure by which the public may appeal a determination to the Environmental Council that an Environmental Impact Statement (EIS) is or is not required under section 343-5, Hawaii Revised Statutes.

Currently, the law makes no provision for an administrative appeal to the Council of an assessment made by an agency that a proposed action may or may not have a significant effect on the environment. The only recourse is to wait until an EIS is actually prepared by the Council and then go to court within sixty days of publication of the determination, which is unnecessarily costly to the questioning party, the agency which prepared the assessment, and the courts.

Your Committee heard testimony by the Environmental Council, the Office of Environmental Quality Control, the Department of Land Utilization of the City and County of Honolulu, and the University of Hawaii Environmental Center, and finds that the Environmental Council already has most of the mechanism in place to assume responsibility for appeals, and that the procedure recommended

in this bill will provide a needed check and balance on the EIS system.

Your Committee has amended the bill by deleting the words "person or agency appealing the determination and" from page 2, line 5 and page 4, line 2, because requiring the appealing party, as well as the agency which made the assessment, to abide by the Council's decision is overly restrictive and precludes subsequent recourse to the courts. Your Committee has further amended the bill by adding the words "or is" between the words "is" and "not" on page 7, line 8, in order to make the intent of this language consistent with the other amendments in the bill.

Your Committee on Health is in accord with the intent and purpose of S.B. 2136-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2136-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 211-84 Consumer Protection and Commerce on S.B. No. 1702-84

The purpose of this bill is to require the return of insurance identification cards to an insurer after the cancellation of a no-fault insurance policy and to impose civil sanctions for the failure to comply with this requirement.

Currently, all owners of motor vehicle are required to have no-fault insurance. Insurance identification cards serve as evidence that a motorist has obtained no-fault insurance. It is possible, however, for a motorist to retain a card after the motorist's insurance policy is cancelled, and continue to operate a vehicle without insurance.

The only enforcement mechanism against this practice is the criminal prosecution of persons who fraudulently use or display no-fault identification cards knowing that the policy has been cancelled. Depending on the amount of the fine imposed, violators may choose to pay a lesser fine for the fraudulent use of the card than to pay the no-fault premiums.

The bill remedies this problem by establishing a procedure to retrieve no-fault identification cards after a policy is cancelled, and providing civil sanctions against violators. The bill also provides a procedure for the prompt refund of unearned prepaid premiums after a card is returned to the insurer.

Your Committee has amended the bill by requiring insurers to explain the reason for cancellation of a policy and to allow insureds whose cards have been lost or stolen to submit a signed affidavit in lieu of the card.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1702-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1702-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling and Soares.

SCRep. 212-84 Consumer Protection and Commerce on S.B. No. 1565-84

The purpose of this bill is to clarify the definition of "collection agency" by including the words "fixed fee" and by adding a provision which would make it clear that collection of installment payments on real estate mortgage loans does not fall within the purview of the collection agencies law.

A question has been raised whether a person who is paid a "fixed fee" for collection of money and claims for another person falls under the purview of Chapter 443A, the collection agency law, since the definition of collection agency in Section 443A-1 refers to payment by "commission". Recently, the Department of Commerce and Consumer Affairs was advised by the Attorney General's Office that those paying "fixed fees" also fall under the definition of a collection agency and must comply with the law.

Your Committee concurs with the Department that the definition of a collection agency should be amended to include the words "fixed fee" for clarification.

Some confusion exists regarding whether consumers should be using the service of a "collection agency" or a "mortgage and collection servicing agent" to collect installment payments of real estate mortgage loans. Although references to real estate mortgages are found only in Chapter 454D, Hawaii Revised Statutes, to avoid confusion, Section 443A-1(a)(C) is being amended to provide that any agreement which provides for installment payments and which is secured by an interest in real property, including without limitation mortgage loans and agreements of sale, whether or not such collection agent receives any compensation or other consideration for services, shall fall under the purview of Chapter 454D, Hawaii Revised Statutes, relating to Mortgage and Collection Servicing Agents.

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 S.B. No. 1565-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1565-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling and Soares.

SCRep. 213-84 Consumer Protection and Commerce on S.B. No. 1871-84

The purpose of this bill is to translate a latin phrase in section 514A-4, Hawaii Revised Statutes, relating to horizontal property regime.

Presently, section 514A-4 utilizes the phrase "juridic acts inter vivos or mortis causa." This latin phrase is incomprehensible and confusing and was translated to "for all other purposes be treated." The translation to plain english will better serve the purpose of section 514A-4.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1871-84 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 Chang, Fernandes Salling and Soares.

SCRep. 214-84 Consumer Protection and Commerce on S.B. No. 1555-84

The purpose of this bill is to:

1. Limit the scope of practice in Hawaii of veterinarians licensed in other states.
2. Allow an applicant who meets licensing requirements to practice under a licensed veterinarian by permit.
3. Eliminate the offices of secretary and treasurer of the Board of Veterinary Examiners.
4. Eliminate the requirement that the Board of Veterinary Examiners submit an annual report to the Governor.
5. Extend the deadline by which applications to take the examination for licensure must be filed from thirty to sixty days prior to the date of the examination.
6. Eliminate the requirement of an oral examination for licensure.
7. Eliminate the requirement that an applicant for licensure be "of good moral character".
8. Provide that the Board of Veterinary Examiners determine the form of examinations for licensure, including those aspects of veterinary medicine common to the State.
9. Remove reference to gender and indefinite modifiers.

Your Committee heard testimony from the Board of Veterinary Examiners in support of the bill. The Board of Veterinary Examiners noted that the functions of the offices of secretary and treasurer were assumed by the Executive Secretary for the Board and that the required annual report was not necessary since the Board could provide the Governor with any information relating to the Board upon request. It was further advocated that the requirement of oral examinations for licensure be eliminated since such tests were found not to be a reliable measure of competence.

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. 1555-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1555-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling and Soares.

SCRep. 215-84 Consumer Protection and Commerce on S.B. No. 1816-84

The purpose of this bill is to prohibit a resident manager, managing agent, or director of a condominium from voting in association meetings in which they have a conflict of interest.

Present law does not address the problem of a resident manager, or managing agent voting at condominium association meetings when they have a conflict of interest. Section 514A-82 does, however, prohibit a director from voting when a director has a conflict of interest.

Currently, a resident manager, managing agent or director may use an association's funds to solicit proxy votes, under the guise of establishing a quorum, to ultimately collect enough votes to both control the voting at association meetings and retain directors of the board. Your committee finds this practice to be misleading and contrary to the intent of horizontal property regime laws.

Your Committee has amended the bill by adding the following restrictions on the voting rights of a resident manager or managing agent of a condominium:

1. Prohibit a resident manager or managing agent from soliciting proxy votes from apartment owners that employ them;
2. Prohibit a resident manager or managing agent from casting any proxy vote at association meetings except to establish a quorum; and
3. Prohibit a director who uses an association's funds to solicit proxy votes, from casting a proxy vote to elect or reelect a director unless authorized by the proxy solicited.

Your Committee further amended the bill to clarify the provision prohibiting a director from voting or casting a proxy vote at board meetings in which the director has a conflict of interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1816-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1816-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling and Soares.

SCRep. 216-84 Consumer Protection and Commerce on S.B. No. 1995-84

The purpose of this bill is to establish a clear definition of the self-service storage industry and to statutorily provide consumers with specific rights and safeguards for the disposition of their property should they fall into arrears.

Currently, the self-service storage industry is without legislative guidelines or definitions. This bill guarantees that contracts between the consumer (occupant) and the owner of the storage facility shall be in writing and shall provide

notice of the owner's recourse in the event the consumer fails to discharge his obligations.

Specifically, the bill provides that an owner may deny access to an occupant if the occupant is more than five consecutive days in default. The owner must then provide a notice to the occupant that the possibility of a lien exists if sums are not paid within ten days, following which an actual notice of lien is issued. However, before the owner may take further action, an additional notice is sent to the occupant that the property will be sold in order to satisfy the lien, after which the impending sale must be advertised for two consecutive weeks in a newspaper of general circulation.

Your Committee heard favorable testimony from the Hawaii Business League and three self-storage businesses and finds that this measure will substantially reduce disputes and litigation arising out of misunderstandings between owners and occupants.

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. 1995-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1995-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling and Soares.

SCRep. 217-84 Consumer Protection and Commerce on S.B. No. 1675-84

The purpose of this bill is to amend Chapter 431 and 433, Hawaii Revised Statutes, to add sections which provide reimbursement to licensed psychologists for services which would be covered by an individual or group accident and sickness policy if the services were performed by a licensed physician.

This bill will broaden the choice of health care providers and the types of expertise available to consumers who have insurance plans which currently limit services to those performed by physicians. Your Committee finds that in some areas of the State where there are few mental health professionals, the bill will provide greater accessibility to their services.

Similar "Freedom of choice" legislation, mandating coverage of various health care professionals to assure consumers the freedom to choose these providers by requiring coverage of their services is currently in effect in several states.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1675-84 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 Chang, Fernandes Salling and Soares.

SCRep. 218-84 Consumer Protection and Commerce on S.B. No. 1748-84

The purpose of this bill was to require that sellers, brokers, or agents notify prospective buyers, lessees, and tenants prior to any transaction involving real property that the real property is designated as a special flood hazard area, is within the boundaries of the noise exposure map, is within the boundaries of the Air Installation Compatibility Use Zone of the military or within a designated tsunami area. The bill also provides penalties of not less than \$100 nor more than \$500 for violations of the chapter which shall be collected through civil action brought by the Director of the Office of Consumer Protection on behalf of the State.

Your Committee heard testimony by the Office of Consumer Protection, the Department of Transportation, the Escrow Association of Hawaii, the United States Navy, and the United States Marine Corps, and finds that this measure serves the public interest by protecting prospective buyers, lessees, and tenants against undisclosed nuisances or hazards prior to acquiring an interest in real property.

Your Committee has amended the bill by:

- (1) Deleting reference to the Airport Noise Control and Land Use Compatibility (ANCLUC) maps on page 1, lines 12-13, and substituting reference to Federal Aviation Regulation 150 - Airport Noise Compatibility Planning (14 CFR 150), which is the more current version of ANCLUC;
- (2) Adding the word "sales" to modify the word "agent" on page 2, line 4, in order to clarify that the agent referred to is a sales agent rather than an escrow agent who is involved in transactions after the execution of the sales contract; and
- (3) Adding the phrase "or if the lessor, broker, or sales agent is not directly involved in the sale, lease, transfer, or any other transaction relating to real property", after the word "less" on line 13, page 2 of the bill as received, to provide for situations in which leaseholds are assigned or sold under an agreement of sale prior to lessor involvement. Such transactions primarily involve the realtor and the homeowner with the lessor merely consenting to the sale.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1748-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1748-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling and Soares.

SCRep. 219-84 Consumer Protection and Commerce on S.B. No. 1540-84

The purpose of this bill was to amend Section 514E-11.2, Hawaii Revised Statutes, governing injunctive relief in time share actions brought under Chapter 514E, Hawaii Revised Statutes, by inserting a provision requesting the court to process such suits in an expeditious manner.

The law presently permits the Director of the Department of Commerce and Consumer Affairs, on behalf of the State, to bring suit against such person or persons engaged in activities in violation of Chapter 514E and the rules and regulations promulgated thereunder, to enjoin such person or persons from continuing with these allegedly violative activities.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of this bill. Although the Director has been granted the power to enjoin acts or practices which are allegedly in violation of this Chapter, it has been the experience of the Department that a request by the State for injunctive relief may not be considered in a timely manner due to a backlog of court cases. As a result of this, a time share company which is allegedly operating in violation of the time share laws may be allowed to continue in the normal course of business pending a court hearing on the State's motion for injunctive relief.

In view of the basic intent of the law, which is protection of the consuming public, your Committee recognizes that the Department should be permitted to proceed as expeditiously as possible with its Chapter 514E actions to prevent the occurrence of further injury to time share purchasers.

In the interest of time and economy, your Committee has amended this bill by consolidating its provisions with the provisions of S.B. Nos. 1542, 1543, 1544, 1545 and 2085. It should be noted that your Committee received favorable testimony from the Department of Commerce and Consumer Affairs with respect to four of these bills (S.B. Nos. 1542, 1543, 1544, and 1545). The bill was specifically amended by:

1. Adding a new section to Chapter 514E, Hawaii Revised Statutes, authorizing the Director to contract with private consultants to review the filings required of all time share developers under Section 514E-10(a), Hawaii Revised Statutes, with the cost of such review to be borne by each developer.

Present law allows the Director to contract with attorneys and other private consultants under Section 514E-27, Hawaii Revised Statutes, to

review the alternative arrangements for purchaser protection against blanket liens which may be submitted as part of the requisite filing for all developers. No expenditure of funds is necessary as the cost of this review work is to be borne by the developer. The Department expressed its support of the new provision which would allow the Director to contract with private consultants to review the filings of time share developers. The use of such consultants would alleviate the administrative burden imposed by the number of filings made by time share developers, plan managers, sale agents, acquisition agents and exchange companies, and would enable the Department to allocate more of its resources to its time share enforcement efforts. Your Committee is cognizant of the public benefit which would be derived from having experts in the time share field and related areas review the plans before they may be offered for sale. Based upon the consultant's review, the Department would ultimately determine whether the developer's filing should be accepted for registration. Additionally, the Department would still conduct a review of the filings made by individuals or entities other than the developer.

Similar consultant provisions have been enacted under Chapter 484, relating to subdivided lands, and Chapter 514A, relating to horizontal property regimes.

2. Adding a new section to Chapter 514E, Hawaii Revised Statutes, establishing voting rights for time share units to provide reasonable protection for persons who own partial interests in or rights to occupy the units.
3. Amending Section 514E-27, Hawaii Revised Statutes, relating to alternative arrangements for purchaser protection against blanket liens on the time share property, to reflect the new provision for consultant review of time share filings.
4. Amending Section 514E-2.5(c), Hawaii Revised Statutes, by removing the Director's authority to suspend or revoke the real estate license of a real estate broker or real estate salesman, who when acting in the capacity of a time share acquisition agent or sales agent, is found to have violated any provision of Chapter 514E, Hawaii Revised Statutes, or the rules adopted pursuant thereto.

At the present time, the power to suspend or revoke a person's real estate license for a violation of the time share statute rests solely with the Director. Your Committee concurs with the Department that such authority should properly be granted to the Real Estate Commission, in view of its jurisdiction over the activities of all real estate licensees under Chapter 467. Your Committee is aware of the present authority of the Real Estate Commission to suspend or revoke the real estate license of a time share company for a violation of the real estate statute. The Commission, however, should be permitted to proceed administratively against any of its licensees who are found to have violated Chapter 514E, as proposed under this section of the bill. The Director, in turn, would retain the power to suspend or revoke the time share registration of an acquisition agent or sales agent found to be operating in violation of the time share statute.

5. Amending Section 514E-10, Hawaii Revised Statutes, to specifically require all time share developers, plan managers, sales agents, acquisition agents and exchange agents to register with the Department prior to engaging in their respective time share activities. The amendments proposed under this section would also conform Section 514E-10(c), governing the filing required of a time share sales agent, to certain statutory amendments enacted in 1981 and 1982, as well as make technical corrections to this section for the purpose of style and clarity.

The Department expressed its support of these proposals in light of specific language in the rules promulgated under Chapter 514E referencing the "registration" of a time share plan and the Department's long standing policy of viewing the filing requirement as being equivalent to registration under the law.

6. Amending Section 514E-12, Hawaii Revised Statutes, which governs civil penalties for violations of Chapter 514E, by a) providing the Director with the power to issue a temporary cease and desist order to a person

who the Director determines is engaging in activities in violation of the Chapter; b) providing the Director with the power to impose a fine and suspend or revoke the registration of such person in the event of non-compliance with the provisions of the temporary cease and desist order; c) restructuring the penalty provisions under this section to authorize the Director to impose a fine and suspend or revoke the registration of any person who is found, after notice and a hearing, to have violated any provision of the Chapter; d) providing the Director with discretion in determining the period of time during which a suspension or revocation order will remain in effect; and e) clarifying that acquisition agents, plan managers and exchange agents as well as time share developers and sales agents are subject to the provisions of this section.

The Director presently has the power to issue a cease and desist order, after notice and a hearing, to require a person found to have violated any provision of Chapter 514E or the rules and regulations promulgated thereunder, to cease and desist from that conduct. If the Director determines, after notice and a hearing, that such person has failed to comply with the cease and desist order, the Director is authorized to suspend or revoke the registration of such person for a period of thirty days for the first offense, and permanently should there be a second offense.

Your Committee understands that in its efforts to enforce the statute, the Department has encountered difficulty in attempting to move expeditiously against time share companies who are allegedly operating in violation of the provisions of Chapter 514E, and that the individual or entity charged with the violation may delay any effective action on the part of the State by requesting a continuance of the hearing on the matter. The interests of time share purchasers in the meantime are not being adequately protected.

The proposed amendments under this section would enable the Director to temporarily stop such violative activities pending a hearing on the matter. The procedural rights of the person affected by the temporary cease and desist order would be protected to the extent that notice of the Director's impending action would be given to such person, the order would be effective for only a ten-day period and a hearing would be held promptly to determine whether or not the order should become permanent. To make this provision more effective, the Director would be able to impose a fine and suspend or permanently revoke the registration of such person in the event of noncompliance with the temporary cease and desist order.

Section 514E-12 would further be amended by deleting the procedural steps involving the issuance of a cease and desist order by the Director and the subsequent failure to comply with such an order. The statute presently authorizes the Director to issue a cease and desist order after notice and a hearing, and requires that notice be given and a hearing held prior to the imposition of a penalty against a person who has failed to comply with the cease and desist order. The proposed amendment would assist the Department in its enforcement efforts by allowing the Director to impose a fine and suspend or revoke a person's time share registration without first having to issue a cease and desist order. The procedural rights of such person would not be impaired inasmuch as the initial notice and hearing requirement under subsection (a) of this section would remain intact.

Finally, in its present form, Section 514E-12, Hawaii Revised Statutes, sets forth the length of time during which a suspension or revocation order would remain in effect. In view of the fact that not all first offenders would have engaged in the same type of violative conduct, your Committee agrees that the Director should be given discretion to determine the duration of the order in light of the severity of the offense.

Your Committee understands that the Director presently has the power to issue a temporary cease and desist order of the nature specified in this amendment under Chapter 484, HRS, governing subdivided lands.

7. Including a severability clause under Section 7 of the bill.
8. Including nonsubstantive changes for the purposes of clarity and conformity with recommended drafting style.

Your Committee notes that the original provision of the bill relating to

injunctive relief in time share actions appears in Section 5 of the bill, as amended.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1540-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1540-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, B. Kobayashi, Kuroda, Yamasaki and Soares.

SCRep. 220-84 Higher Education on S.B. No. 2050-84

The purpose of this bill is to clarify section 304-4, Hawaii Revised Statutes, by establishing a more meaningful definition of the powers and duties of the Board of Regents.

Pursuant to Section 50 of the General Appropriations Act of 1979 (Act 214), the Legislative Auditor was directed by the Legislature to conduct a Comprehensive Management Audit of the University of Hawaii. In March, 1981, the Legislative Auditor submitted his findings and recommendations to both the Governor and the Legislature in Report No. 81-9, Management Audit of the University of Hawaii.

Your Committee finds that since its publication, this report has been extremely valuable in providing the Legislature with a means to adequately evaluate the management and organizational effectiveness of the University System within a practical framework of prudent goals and objectives for higher education. The essence of the report and the purpose of this bill are contained in the following excerpts from the Legislative Auditor's report:

"One of the prime needs is for the University to develop a functional and pragmatic perspective toward itself and what it is and should be doing. . . .

The need now is to shift from an emphasis on traditional consideration to an emphasis upon: (1) defining the role of the University, and (2) designing programs and the necessary administrative apparatus to fulfill this role. Once the University's general role has been thus developed, the University must then define this into a more specific set of objectives. Then after evaluating alternative methods for meeting the selected objectives, the University should formulate appropriate action programs and lay out the functions which must be performed to implement these programs."

Your Committee wishes to emphasize that the intent of the bill is to put into statute, the more pertinent recommendations of the Legislative Auditor. This is to establish clear and meaningful guidelines which accurately describe the major duties and responsibilities of the Board of Regents for which they may and should be held fully accountable.

In testimony received by your Committee, the University expressed agreement with the content of the bill and indicated that efforts were underway to further strengthen its attention to the areas of concern as contained in this bill.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2050-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 221-84 Health on S.B. NO. 1517-84

The purpose of this bill is to clarify the language setting forth the Department of Health's responsibilities relating to services for crippled children, and to eliminate references to outdated federal statutes, rules, and regulations.

Your Committee heard testimony by the Department of Health supporting the recommended changes, and finds that this bill will make it easier for the Department and the State to respond to changes in the procedures for requesting and expending federal funds for services to crippled children.

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

No. 1517-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 222-84 Judiciary on S.B. No. 2206-84

The purpose of this bill is to make the transfer of voter registration process more practical and efficient.

Specifically, the bill provides as follows:

- 1) it eliminates the time period in which the clerk must mail notification to the voter of the clerk's intent to transfer registration;
- 2) it eliminates the duty of the clerk to publish in a newspaper the clerk's intent to transfer registration;
- 3) it specifies that on the reply form from the voter in response to the clerk's notification, a space must be afforded for the voter's signature;
- 4) it eliminates the requirement for notice that if the form is not returned by a certain date, the voter can be challenged at the polls, and replaces it with the requirement for notice that if the form is not returned by a certain date, the transfer will be processed;
- 5) it eliminates the requirement for a second notification if there is no response from the voter;
- 6) it eliminates the authority of the clerk to transfer the voter if the clerk has good reason to believe the voter resides at another address than the one on the registration list;
- 7) it eliminates the need to return the voter to the old list by executive order;
- 8) it eliminates the need to post the list of all voters with questionable addresses who have failed to respond to the notification efforts; and
- 9) makes nonsubstantive, technical changes to conform to recommended statutory drafting style.

When the present law on voter registration was passed in 1970, the procedures mandated by statute were workable. However, given the great increase in population, the procedures have become an administrative burden to the clerk. Your Committee finds that the procedures outlined in the bill will be more efficient, yet at the same time, will still safeguard both the interests of the voter and the State.

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. 2206-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2206-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 223-84 Judiciary on S.B. No. 2012-84

The purpose of this bill is to empower district court judges to issue orders compelling testimony where a person subpoenaed in an official proceeding has or will assert his privilege against self-incrimination. The bill would also require written applications by the attorney general or county prosecutor for such orders as compel testimony.

The present witness immunity law only allows circuit court judges to issue orders to compel testimony upon application by the attorney general or county prosecutor. The intent behind this law, enacted in 1978, was to afford law enforcement agencies more flexibility in the prosecution of crimes while also insuring that the witness who is being compelled to testify or produce

information is granted some degree of immunity from criminal prosecution.

Testimony offered by the Honolulu Department of the Prosecuting Attorney indicated that the need for orders to compel witness testimony often arises in district court cases. Under the present law, district court judges are required to delay trial in order to obtain an order to compel testimony from a circuit court judge. The proposed amendment would obviate this burden and expedite district court trial proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2012-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 224-84 Judiciary on S.B. No. 1979-84

The purpose of this bill is to require criminal proceedings in the state courts to be instituted in the name and by the authority of "The People of the State of Hawaii." Currently the style of process runs in the name of "The State of Hawaii."

Testimony from the Honolulu Department of Prosecuting Attorney indicated that Hawaii case law and other state and county legislation require county prosecuting attorneys to conduct all prosecutions on behalf of the people.

Your Committee recognizes that many states have traditionally used "The People of the State of _____" as the style of process in criminal proceedings. This style of process is a more accurate description of the nature of criminal proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1979-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 225-84 Judiciary on S.B. No. 1893-84

The purpose of this bill is 1) to require family counseling in custody and visitation disputes, 2) to authorize the Family Court to make such orders for visitation as are necessary and proper, and 3) to mandate that custody be awarded to either or both parents according to the child's best interests, 4) to allow the Court to order an investigation concerning the visitation if custody and visitation are disputed, and 5) to make technical, nonsubstantive changes to conform to recommended drafting style.

Pursuant to Senate Resolution 91, Requesting A Study By the Family Court of the Enforcement of Visitation Rights of Divorced Parents, passed in 1983, the Family Court conducted a study of 249 disputed custody and/or visitation cases in divorce actions in 1982-1983. It reports the following results:

...[T]he greatest stumbling block in reaching an amicable visitation plan prior to ... as well as after the divorce was the inability of the parties to resolve their personal hostility toward each other ... Unresolved conflicts of the divorced parents may cause the parents to vent their anger, frustration or hostility on their children as well. Their anger and inability to talk to one another persists even after the decision awarding custody, thus the custodial parent does set up road blocks which cause one party to seek relief through formal court action, which incurs attorneys fees and court costs. We support the resolution of this problem by non [SIC] judicial actions such as counseling services from private social agencies, mental health clinics, neighborhood justice centers, pastoral counseling and private practitioners.

Your Committee is concerned about the rights of the noncustodial parent and the child. Their continuing relationship must be sustained and encouraged. Family counseling is a practical and effective solution to prevent or reduce hostility between the parents, to further the best interests of the child, and to avoid costly attorneys fees and court costs by promoting amicable settlements of custody and visitation disputes.

Your Committee amended the bill to postpone the effective date of the Act until July 1, 1985. Family Court testified that it needed time to consult with counseling services in the community, request their assistance, and otherwise plan for implementation. Your Committee also suggests that Family Court explore ways to introduce family counseling into disputed custody and/or visitation cases which 1) will not delay the ultimate resolution of the original divorce, separate maintenance, paternity, guardianship, or other family court action, and 2) will not be a heavy financial burden to the parties, especially low-income people.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1893-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1893-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 226-84 Judiciary on S.B. No. 1732-84

The purpose of this bill is to specifically grant Family Court jurisdiction over proceedings involving violations of their own orders.

Currently under Hawaii Revised Statutes §571-8.5(6), Family Court has the power to punish contempts; however, there is no specific authority to grant Family Court the power to hear and determine violations of their own orders. This bill would clarify the present implied authority of the Family Court.

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. 1732-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1732-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 227-84 Judiciary on S.B. No. 1729-84

The purpose of this bill is to replace the outdated provision for annual terms of the supreme court and the intermediate appellate court with new provisions for continuous sessions.

Under the present law, the annual term for both the supreme court and the intermediate appellate court begins on the first Monday in October and continues until adjournment or until the next term begins.

However, due to heavy operating workloads, the appellate courts have been in continuous session for several years. Thus, by providing that the appellate courts shall be in continuous session, this bill would conform the statutes to what has become the practice in the courts.

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. 1729-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1729-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 228-84 Judiciary on S.B. No. 1726-84

The purpose of this bill is to authorize the assignment of district family judges to district court service.

Under Section 571-8(b) of the Hawaii Revised Statutes, district judges may serve as district family judges. This bill would allow the converse and facilitate the most efficient use of judicial personnel in our busiest courts.

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. 1726-84, in the form attached hereto as S.B. No. 1726-84, 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. 229-84 (Majority) Judiciary on S.B. No. 1725-84

The purpose of this bill is to authorize a holdover member of a board or commission to continue membership until a successor is nominated and appointed; it also limits such membership to not extend beyond the second regular legislative session following the expiration of the member's term of office.

Your Committee finds that limiting the length of service of a holdover board or commission member better serves the intent of Article V, Section 6 of the State Constitution, governing executive and administrative offices and departments.

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. 1725-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1725-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Cayetano, Carpenter and George did not concur.

SCRep. 230-84 Judiciary on S.B. No. 1566-84

The purpose of this bill is to authorize the Director of the Department of Social Services and Housing to transfer prisoners who are foreign nationals to their respective countries if a treaty between the United States and those foreign countries provides for such exchange.

Information obtained from the Office of International Affairs, U.S. Department of Justice, indicates that the cost of transportation and escorts for foreign prisoners will be assumed by the affected foreign country. Similarly, the Department of Justice will assume the responsibility of escorting and funding U.S. citizens being transferred from the foreign countries as prisoners.

The transfer of foreign prisoners would help to alleviate the overcrowding in our state correctional facilities. Since United States citizens are returned as federal prisoners, not state prisoners, the exchange will not increase the state prison population.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1566-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 231-84 Judiciary on S.B. No. 784

The purpose of this bill as it came to the Committee is to 1) add a new section to Chapter 11, Hawaii Revised Statutes, to require the chief election officer to ensure that census tract boundaries follow permanent and easily recognized features, and to avoid dividing known communities; 2) to amend §11-92, Hawaii Revised Statutes, to require that precincts be wholly contained within a single census tract and to avoid dividing existing communities; 3) to designate a centrally located public building if more than one available as a polling place; and 4) to conform the statute to recommended drafting style.

Your Committee finds that the provision regarding census tract boundaries is not necessary. It further finds that §11-92 was replaced by §11-92.1 in 1983.

Your Committee amended the bill to provide that the deadlines for changing precinct boundaries and establishing multiple polling place sites shall be the same as that of the issuance of the election proclamation by the chief election

officer.

Given the reapportionment of the State recently completed by the Hawaii State Reapportionment Commission, many of the precincts under which the 1984 elections will be held will be new. Under the present statutory scheme, a proclamation would have to issue for all of these precincts twice--once under §11-92.1 and again under §11-91. This bill would obviate the necessity of duplicating the proclamation.

Your Committee on Judiciary concurs with the intent and purpose of S.B. No. 784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 784, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 232-84 Human Resources on S.B. No. 1575-84

The purpose of this bill is to strengthen and clarify those sections of the Hawaii Revised Statutes which relate to child day care centers.

The law, as currently worded, is ambiguous and difficult to apply to certain situations. For instance, the present law excludes kindergartens and schools conducted solely for educational purposes, but makes no reference to the ages of the children involved. Another area of ambiguity is the present law's exclusion of organizations established to conduct athletic or social group activities. Activities such as judo tournaments, art classes, piano lessons, and little league baseball need not be regulated under current standards, but regulation becomes necessary when those activities are incidental to the program's primary objective of regularly providing care and supervision to young children over an extended period of time.

This bill strengthens the statutes on child care facilities and licensing in the following ways:

- 1) It allows the Department of Social Services and Housing to determine the duration of licensing intervals based on experience;
- 2) It clarifies the present ambiguities in the law by replacing the term "child care center" with "child care facility" and providing a definition of facility along with specific exclusions;
- 3) It updates the language relating to fire marshalls to reflect the transfer of the functions of the fire marshal to the counties; and
- 4) It changes the penalty for non-licensure, from a fine to a misdemeanor, which is more commensurate with the offense.

Your Committee heard favorable testimony from the Department of Social Services and Housing and finds that this bill will enable the department and the public to more clearly distinguish which child care facilities are subject to licensure and which are exempt, thereby effecting consistency in decisions relating to programs established for young children. Your Committee also is cognizant of the need to review day care inspection procedures and intervals and the feasibility of adding more positions to the Department of Social Services and Housing for that purpose, and intends to study this matter during the Interim and report its findings and recommendations to the Legislature during the Regular Session of 1985.

Your Committee has amended the bill by providing that programs which exclusively teach the Hawaiian language shall be excluded from the child care statutes. Your Committee has further amended the bill by defining "day care facility" as a place in which care is provided for five or more children, rather than two or more as proposed in the original bill, so as to maximize the opportunity for potential providers to engage in day care activities without being subject to the cumbersome procedures attendant to licensing, and 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. 1575-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1575-84, S.D. 1, and be

placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 233-84 Agriculture on S.B. No. 1940-84

The purpose of this bill is to allow the use of electrically charged attachments on fences built along the boundary of any government road or within the exterior boundaries of any leased public land or any privately owned land for the purpose of confining animals or protecting farms against the trespass of animals.

Currently, the use of electrified fences is prohibited along the boundary of any government road. This bill would allow such fences, provided that the electrically charged attachments are affixed only to the interior side of the fence and that no person can be injured as a result of touching the exterior of the fence or fence post.

Your Committee finds that electrified fences do not pose a threat to the public's safety, while providing the benefits of increased efficiency in livestock operations, and decreased incidences of stray animals on public highways and lands.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1940-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 234-84 Agriculture on S.B. No. 1951-84

The purpose of this bill is to increase the penalty for violations relating to the branding of animals.

Currently, penalties for violations relating to the branding of animals range from \$1 to \$20. This bill would set the maximum penalty at \$200 for such violations.

Your Committee heard favorable testimony from the Board of Agriculture stressing the importance of this bill in deterring cattle rustling, which causes significant loss to the livestock industry.

Your Committee finds that it is in the public interest that this bill be passed. Branding is a permanent identification of an animal and is a reliable method to determine ownership. The illegal use of a brand, the use of unregistered brands, and the obliteration of brands are methods used in rustling. An increase in the penalty for such violations will aid in deterring cattle rustling.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1951-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 235-84 Agriculture on S.B. No. 2041-84

The purpose of this bill is to expand the requirements for obtaining a license to operate as a broker of farm produce.

Currently, to obtain a license as a broker of farm produce, a broker is not required to file a schedule of commissions and charges or to obtain a surety bond. This bill requires that such conditions be met. These conditions parallel the licensing requirements applicable to commission merchants.

Your Committee heard favorable testimony from the Board of Agriculture and which suggested that "agents" should be subject to the penalty provisions for the late renewal of a license. Your Committee finds that such a recommendation assures that the law applies equally to all licensees and has therefore amended the bill accordingly.

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

S.B. No. 2041-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2041-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 236-84 Consumer Protection and Commerce on S.B. No. 1855-84

The purpose of this bill was to exempt from real estate licensing requirements any person who leases, offers to lease, rents or offers to rent any hotel room, condominium, apartment or similar accommodations for a period of less than 28 days for vacation rentals or other temporary occupancy.

This bill is designed to allow nonlicensed persons to manage hotels and to lease or rent hotel rooms, condominium apartments or similar accommodations for short term vacation rentals or other temporary occupancies. Usually these rental and occupancies are run as hotel operations with 24 hour maid service, front desk, and other hotel type service. The Real Estate Commission has not required licensing for persons offering such rentals because short-term rentals are terminable at will by the occupant, and only incidentally involve real property documents which require the training and skills of a licensed real estate broker. Also, the bill does not affect tenancies extending beyond twenty-eight days in the aggregate, which require written leases handled by licensed brokers or salespersons.

After considering testimony by Village Resorts, the Real Estate Commission, the Hawaii Hotel Association and the Hawaii Association of Realtors, your Committee concludes that the problem addressed by the bill could best be accommodated by amending the bill to exempt from licensing requirements any person who leases, offers to lease, rents, or offers to rent, any licensed hotel room or similar licensed accommodations located in areas zoned for hotel or resort use, and primarily rented on a daily basis. The bill has been amended accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1855-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1855-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling, Yamasaki and Soares.

SCRep. 237-84 Consumer Protection and Commerce on S.B. No. 1874-84

The purpose of this bill was to amend Section 514A-84, Hawaii Revised Statutes, to provide that a managing agent shall not commingle association funds with its own funds and to establish a record keeping retention procedure for managing agents.

Testimony submitted by Chaney, Brooks & Co., a property management firm in the State, indicates that there have been situations where funds in the general operating account were used to pay for the lease rent of individual apartments and where association funds were used in the hotel operations of the resort rental group.

Your Committee has amended the bill on page 2, lines 14-16, to delete the language in subparagraph (d) and add as new language, "The funds in the general operating account of the condominium association shall not be commingled with funds of other activities such as lease rent collections and rental operations, nor shall the managing agent commingle any association funds with its own funds." This amendment allows for more accurate accounting and financial reporting procedures.

Your Committee has further amended the bill on page 2, line 19, changing from "six" years to "five" years, the retention period of records to be kept by a managing agent. Testimony submitted contends that property management firms are saturated with files, storage costs are prohibitive, and in most cases, these files are outdated after a few years. There are, however, some key financial records and minutes of meetings that are kept indefinitely.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1874-84, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as S.B. No. 1874-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling, Yamasaki and Soares.

SCRep. 238-84 Consumer Protection and Commerce on S.B. No. 1694-84

The purpose of this bill was to amend the Uniform Securities Act (modified) to require the registration of investment advisers.

Presently, Hawaii law does not require investment advisers to disclose information which would be subject to review before granting them the right to conduct their business or to submit periodic reports of their business transactions. Consequently, there are no means to prevent persons with criminal records, bad business repute, or financial instability from operating in this State.

Although investment advisers are presently required to register with the Security and Exchange Commission (SEC), to disclose certain information, and to keep complete business records for a period of five years, a memorandum received from the Legislative Reference Bureau indicated that the SEC has such a large pool of people to police that it cannot possibly conduct sufficient examinations and audits to the satisfaction of the different states. The memorandum further indicated that the SEC's limited investigative resources may be the reason that thirty-six states have statutory provisions requiring the registration of investment advisers. The courts have ruled that the federal government has not preempted the states in this area and that a state may regulate the qualifications and activities of investment advisers pursuant to the state's police powers to regulate occupations affecting the welfare and property of the citizens of the State.

In view of recent events involving investment adviser misconduct, your Committee finds it necessary to enact legislation that would deter future misconduct by requiring the registration of investment advisers in this State.

Your Committee is aware of the Department of Commerce and Consumer Affairs' concerns that such requirements may necessitate additional personnel to handle investment adviser registrations and notes that this bill includes a built-in "trigger mechanism" whereby the commissioner of securities would conduct a thorough investigation of applicants or registrants upon the finding of substantive errors in a registration statement or the filing of complaints. Your Committee further notes that this bill includes a provision that would authorize the commissioner to coordinate efforts with the SEC and any similar entities to avoid unnecessary duplication of examination and investigations.

This bill also includes the following provisions:

1. An investment adviser applicant would be required to take an oral or written examination or both to test the applicant's knowledge of securities.
2. An applicant would be required to file an application for registration with the State commissioner of securities accompanied by an irrevocable written consent for service of process.
3. The investment adviser would be required to post a bond in the sum of \$10,000 and to have business insurance of not less than \$5,000,000.
4. A minimum capital requirement of not less than \$10,000 would be imposed on investment advisers.
5. Investment advisers would be required to maintain complete business records for a period of three years and these are open to inspection by the Commissioner.
6. The investment adviser would be required to pay an initial registration fee and a biennial renewal fee.
7. Applicants registering may be required to publish an announcement of the application in one or more newspapers of general circulation in this state.

8. Upon the finding of errors in a registration statement or filing of complaints, the commissioner may deny or revoke an investment adviser's registration.

Your Committee has amended this bill as follows:

1. Deleting the proposed new section mandating the adoption of unethical business practices rules for investment advisers;
2. Increasing the proposed examination fees for investment adviser applicants from \$10.00 to \$100.00;
3. Deleting the proposed requirement that the applicant's fingerprints be sent to appropriate authorities;
4. Deleting the proposed exemptions for salesmen registration examination requirements in concurrence with the exemptions provided for investment advisers in subsection 485-14(d);
5. Deleting the proposed requirement that the commissioner investigate a salesman's initial application; and
6. The substitution of "may" for "shall" pertaining to the commissioner conducting an investigation upon the finding of errors in a registration statement or the filing of complaints and the elimination of the thorough investigation standard.

Your Committee has further amended the bill by providing that the prohibitions for sales commissions on insurance policies or annuities under Subsection 485-25(c), Hawaii Revised Statutes, shall not be applicable to sales by those licensed under chapter 431, Hawaii Revised Statutes. Your Committee has also amended the bill for purposes of clarity.

A severability clause has been added to ensure that if any provision of this bill would become invalid if enacted into law, the invalidity would not affect other provisions or applications which can be given effect without the invalid provision or application.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1694-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1694-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, Yamasaki and Soares.

SCRep. 239-84 Consumer Protection and Commerce on S.B. No. 2131-84

The purpose of this bill was to allow physically handicapped motor vehicle owners who require the services of an attendant licensed driver to obtain a no-fault insurance policy through the Hawaii Joint Underwriting Plan.

Presently, the Department of Social Services and Housing pays the insurance premium for disabled welfare recipients who have a driver's license and can drive their own vehicles. However, existing law does not cover those who are severely disabled and own their own vehicle but require an attendant licensed driver.

Your Committee heard testimony from the Hawaii Centers for Independent Living that the provisions of the amended bill would encourage disabled welfare recipients to become more independent and productive by allowing greater mobility in their communities. The provision is particularly needed to aid those who live in the rural areas of Oahu and on the Neighbor Islands as there is little or no special transportation services available for the physically handicapped.

Your Committee finds that the scope of coverage of the bill is much too inclusive and has accordingly amended the bill to specify that the proposed change apply only to disabled welfare recipients who own a motor vehicle but require someone else to drive it. Further, your Committee finds that section 294-22(b)(2)(A) of the Hawaii Revised Statutes rather than section

294-22(b)(2)(B) would be a more logical place to insert the proposed amendment and has therefore amended the bill accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2131-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2131-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Fernandes Salling, Yamasaki and Soares.

SCRep. 240-84 Consumer Protection and Commerce on S.B. No. 2056-84

The purpose of this bill was to expand the exemption provisions of Chapter 462A, Pilotage, Hawaii Revised Statutes, to include fishing vessels licensed or enrolled under the laws of the United States of America.

During its hearing on the bill, your Committee received oral testimony by the Chairman of the Board of Pilot Commissioners, initially in support of the bill. Your Committee requested further information, which the Chairman supplied, and on the basis of that data concluded that the proposed new language was redundant. Your Committee finds that existing language of Chapter 462A-19, subparagraph (1), covers the proposed new class of exempted vessels, namely, fishing vessels licensed or enrolled under the laws of the United States of America, and has, therefore, amended the bill by deleting the proposed language. A technical change of the original bill substituting "the person" for "his" has been retained.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2056-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2056-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, Yamasaki and Soares.

SCRep. 241-84 Consumer Protection and Commerce on S.B. No. 1815-84

The purpose of this bill is to amend Chapter 514A by adding a section which would permit arbitration of any dispute relating to the interpretation, application or enforcement of Chapter 514A.

Your Committee amended the bill by adding new sections to Chapter 514A, Hawaii Revised Statutes, which provide procedures for the proposed arbitration process.

It is the intent of the bill, as amended, to expedite the disposition of certain disputes and, at the same time, protect the constitutional right of any party to due process and trial by a jury.

Specifically, the bill, as amended, includes sections which:

1. Allow for review to determine whether a dispute is suitable for arbitration.
2. Define those disputes which were not suitable for disposition by arbitration.
3. Provide general criteria as to what disputes are suitable for disposition by arbitration.
4. Allow declaratory relief against the insurer for the association of apartment owners to determine whether insurance coverage is available for arbitration.
5. Allow for the awarding of costs and fees by the arbitrator.
6. Provide procedures by which arbitration awards are made and by which such award can be confirmed.
7. Allow a party, at his own expense, to obtain findings of fact and conclusions of law by the arbitrator.

8. Allow for appeal of the arbitration award.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1815-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1815-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, Yamasaki and Soares.

SCRep. 242-84 (Majority) Consumer Protection and Commerce on S.B. No. 2196-84

The purpose of this bill is to allow brokers to share commissions with brokers who are lawfully engaged in brokerage activities under the laws of a foreign country provided that such broker does not conduct any of the negotiations in this State.

The State Attorney General's office is of the opinion that a Hawaii broker may not split fees with a broker from a foreign country under existing law. A survey of 49 sister states, the District of Columbia, and six Canadian provinces indicates that thirteen states either permit or might permit fee splitting with brokers from a foreign country.

While Hawaii's license law does not permit this type of fee splitting, brokers who have affiliate offices in one of the thirteen states that allow fee splitting could circumvent Hawaii's law by processing transactions with brokers from foreign countries through their affiliate offices. Thus, Hawaii's law places brokers without affiliates in states permitting fee splitting at a disadvantage. This inequity would be corrected by the passage of this bill. In addition, permitting Hawaii brokers to share commissions with brokers from foreign countries would be a recognition of Hawaii's role in Asia-Pacific commerce.

Your Committee made a technical non-substantive change 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. 2196-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2196-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, Yamasaki and Soares.
Senator Kawasaki did not concur.

SCRep. 243-84 Consumer Protection and Commerce on S.B. No. 1867-84

The purpose of this bill was to amend certain provisions of the Horizontal Property Regimes Act as follows:

1. Provide for separate metering of utilities. The boards of many condominium projects want to separately meter the utilities provided to each apartment in their project, or to separately meter the commercial units. This desire is motivated by rising utility costs which require substantial maintenance fee increases. This problem is particularly severe in projects with central air-conditioning systems. Substantial savings can be made by separately metering apartments and by making the apartment owners individually responsible for the actual cost of the utilities used by their apartments. However, it is presently unclear whether boards have the power to separately meter apartments. In light of the absence of any statutory provision and the significant initial cash outlay, a number of condominium projects have refrained from separately metering their projects for fear that this investment might be lost in the event of legal challenge.
2. Deletes the requirement that at least one-third of the directors' terms expire annually. Section 514A-82(1), Hawaii Revised Statutes, presently states that the terms of at least one-third of the directors of each condominium association must expire annually. This has been problematic for condominium associations that have attempted to reduce the number of board members to less than nine because of difficulties in obtaining a quorum. The standard number of years served by directors is three

years and it is difficult for one-third of the three year terms on a board having less than nine members to expire annually. Therefore, a number of associations have been unable to reduce the number of directors on their boards as desired and a number of other associations have had to reduce the terms of the directors to two years in order to be permitted to reduce the number of board members. This bill eliminates this problem.

3. Clarify that no director shall vote by proxy at any board meeting on any issue as to which he has a conflict of interest. Directors should not be able to vote by proxy because they might have changed their vote had they been present and participated in the board discussion regarding the particular issue in question.
4. Establishes procedures for the use of proxies at association meetings. Confusion has arisen at association meetings as to the validity of proxy forms not created by the association. The purpose of this amendment is to specify the items which must be in any proxy and to require that proxies be delivered at least two business days prior to the meeting to which they pertain, so as to avoid the confusion which occurs at association meetings when it is necessary to count and determine the validity of proxies delivered at the start of the meeting.
5. Clarifies the requirements for improvements to condominium projects. Section 514A-89, Hawaii Revised Statutes, pertains to what additions and improvements may be placed upon a condominium project and is ambiguous at present. This causes confusion regarding what types of additions and improvements may properly be made. The bill is particularly important for townhouse and detached dwelling type condominium projects, since owners of those types of units quite frequently desire to make improvements that would be acceptable to their boards.
6. Relieves associations of responsibility for certain arrearages on apartments voluntarily transferred to new owners. Section 514A-91, Hawaii Revised Statutes, presently provides that condominium associations must provide a statement upon request as to the outstanding balance of accounts pertaining to units in the process of being sold. Condominium associations are currently in a difficult position because they are forced to give such statements and are then barred by such statements from liening the property in the event that any portion of the amounts indicated in such statements are subsequently dishonored. The amendment enables associations to avoid this problem if they provide itemized notice to the purchaser as to what portions of the amounts stated therein were received by check within the previous 30 days. Once a potential purchaser has received such notice, he or she is in a position to delay the close of escrow as necessary to ensure the clearance of such funds or to demand such other adequate assurances as are necessary from the seller.
7. Amends the caption and the text of Section 514A-92, Hawaii Revised Statutes, so as to clarify its intended purpose.

Your Committee has made technical changes to the bill which have no substantive effect. Your Committee has further amended the bill to provide that all association and board meetings may be in accordance with accepted rules governing conduct of meetings other than Robert's Rules of Order.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1867-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1867-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, Yamasaki and Soares.

SCRep. 244-84 Transportation on S.B. No. 2243-84

The purpose of this bill is to amend Section 266-21.1(d), Hawaii Revised Statutes, relating to Small Boat Harbors as follows:

- (1) to permit, for a one-year period, commercial vessel owners holding valid mooring or commercial permits to transfer ownership of the vessel to a

corporation without losing their rights to moor or operate the vessel;

- (2) to add the definition of "person" and to clarify the definition of "owner";
- (3) to require the "owner" of a vessel to notify the Department of Transportation of any transfer of interest or possession in the vessel which transfer terminates the permit to moor said vessel;
- (4) to exempt corporate stock transfers from the aforementioned requirement; and
- (5) to amend Section 266-25, Hawaii Revised Statutes, relating to penalties for violation of certain DOT regulations and the lawful commands of certain harbor personnel.

Under present DOT rules relating to small boat harbors, any transfer of an interest in any vessel automatically terminates any right to moor or operate the vessel under the permit. This has created a hardship on commercial operators in the State's small boat harbors such as Kewalo Basin on Oahu and this bill attempts to reconcile the disparity in the rules governing commercial operators in small boat harbors and commercial harbors.

Your Committee received testimony from the Department of Transportation, the Department of Economic Development, and owners and operators of commercial vessels moored in State small boat harbors stating that the automatic loss of permit upon transfer of ownership is a serious problem to the industry and needs to be addressed.

The DOT reported to your Committee that at least one jurisdiction has five-year concession leases for commercial operators where the incumbent has first option to renew the lease for another five years. If the option is refused, the lease is put up for bid. Your Committee has requested that DOT investigate the feasibility of instituting a similar system.

Your Committee has also requested that the DOT, which is presently authorized to impose fees, investigate and institute transfer fees to be paid by the transferring commercial owner based on the gross revenues of that owner's operation. Your Committee has further requested that this transfer fee arrangement be applied as uniformly and fairly as possible throughout the State.

Your Committee has amended the bill as follows:

- (1) to delete the stipulation that a permit to moor a vessel is terminated upon transfer of interest or possession. This language is covered elsewhere in the statutes;
- (2) to add that a corporation transferring stock must possess a valid commercial permit and be required to meet minimum revenue standards. This language clarifies the intent of this section in referring to commercial operations; and
- (3) to include in the penalty provisions suspension of the privilege of operating or mooring any vessel in state waters for a period of not more than two years, and imprisonment for not more than one year for violations which may cause a hazard to life or property.

Your Committee has further amended the bill by making other nonsubstantive changes to clarify the language without changing the intent of the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2243-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2243-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 245-84 Transportation on S.B. No. 1629-84

The purpose of this bill is to provide statewide parking privileges, including eligibility criteria, for disabled persons.

A recent study by the Commission on the Handicapped indicates that policies regarding parking for disabled persons are presently uncoordinated, often resulting in multiple and conflicting eligibility criteria and permit issuance practices. This measure defines disabled persons and certificates of disability and provides uniform policies and procedures for issuing permits and placards.

Your Committee heard favorable testimony from the Department of Transportation, the Commission on the Handicapped, the Office of Human Resources of the City and County of Honolulu, and various private agencies and finds that this bill will be instrumental in resolving the current problems pertaining to parking for disabled persons.

Your Committee also finds that the bill, as written, is difficult to implement and has therefore made amendments:

- (1) Providing for the issuance of placards by the counties, since this is the current practice and the most convenient method;
- (2) Specifying that the placard shall be designed, fabricated, and sold to the counties by the Department of Transportation at cost;
- (3) Providing that the placard shall be prominently placed in the disabled person's vehicle;
- (4) Providing that the Department of Transportation shall adopt rules regarding renewal, replacement, and design of placards and the enforcement of this Part;
- (5) Providing penalties for misusing the placard; and
- (6) Rewording the preamble to conform to the amendments stated above.

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

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1629-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1629-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 246-84 Transportation on S.B. No. 300

The purpose of this bill is to require that automobile alarm systems which emit sounds when activated have an automatic device that terminates the system within fifteen minutes of activation.

Presently, motor vehicle alarm systems and the use thereof are not subject to any kind of statutory regulation. However, testimony presented to your Committee by the City Council of the City and County of Honolulu indicates that motor vehicle alarms frequently malfunction, causing innocent citizens to suffer through hours of discomfort.

Upon further consideration, your Committee has amended the bill by deleting the provision that every alarm system must automatically terminate within fifteen minutes, and substituting therefor a provision that the registered owner of a vehicle whose alarm system emits an audible signal for more than ten minutes shall be fined not less than \$50 nor more than \$100, rather than the penalty provided in the original bill. The reason for these changes is that your Committee believes that ten minutes rather than fifteen is sufficient time for the owner or operator to shut off the alarm system, and that only the registered owner of the motor vehicle should be liable. Furthermore, a minimum fine of \$50 should be sufficient to encourage the owner or operator to discharge his duties.

Your Committee has further amended the bill by providing that it shall take effect on July 1, 1984, and by making technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 300, as amended herein, and recommends that it pass Second Reading

in the form attached as S.B. No. 300, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 247-84 Health on S.B. No. 1513-84

The purpose of this bill is to extend the requirement that women applying for a marriage license receive a rubella test and require that the Department of Health notify those women found to be susceptible.

Act 143, Session Laws of Hawaii 1979, requires mandatory premarital screening of women for rubella and mandates the Department of Health to be responsible for follow-up and immunization of those women found to be susceptible to rubella. However, Act 143 contains a "drop dead" clause of June 30, 1984 as to the requirement for premarital screening of rubella. This bill will extend the screening requirement of Act 143 until June 30, 1989 and amend the departmental responsibility to those women found susceptible to rubella from follow-up and immunization to only notification.

Your Committee heard favorable testimony from the Acting Deputy Director of Health and also the Commission on the Handicapped which suggested that the bill be amended to continue the Department of Health's responsibility for providing rubella immunization to those women who are referred to the Department by their private physician.

Your Committee is in agreement with the Commission's suggestion and has amended the bill to reflect this suggestion.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1513-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1513-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 248-84 Health on S.B. No. 761

The purpose of this bill is to reschedule methaqualone, commonly known as Quaaludes, from Schedule II to Schedule I controlled substances, and to reschedule the combination of hydrocodone and phenyltoloxamine, commonly known as Tussionex, from Schedule III to Schedule II.

Your Committee heard testimony by the Hawaii Pharmaceutical Association to the effect that methaqualone is a controlled substance which is highly abused throughout the State. Because of adverse reaction by the public, the manufacturer of Quaaludes has ceased manufacturing the product as of the beginning of this year. However, the federal Food and Drug Administration has not prohibited the manufacturing of this product. Rescheduling methaqualone to Schedule I will remove this substance from the legal distribution channel in the event other manufacturers resume production and distribution.

The Association further testified that the combination of hydrocodone and phenyltoloxamine poses a serious health and law enforcement problem, as evidenced by the fact that pharmacists experience numerous attempts to obtain this substance through fraudulent means, either by forged or altered prescriptions or by attempts to phone in a bogus prescription.

Your Committee also heard favorable testimony by the Department of Health, and finds that methaqualone and Tussionex are dangerous substances and should be rigidly controlled, and that this bill will make them more difficult to obtain, thus reducing incidences of abuse.

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 except Senator Fernandes Salling.

SCRep. 249-84 Housing and Urban Development on S.B. No. 1712-84

The purpose of this bill is to allow, upon the death of a homestead lessee, payment of net proceeds for lessee improvements to the spouse and children who are not qualified to succeed to the leasehold.

Under current law when a lessee dies leaving a spouse or child not qualified to succeed to the homestead interest and there are no qualified relatives to succeed, the lease is canceled and the payout of the net proceeds (appraised values less outstanding indebtedness to the Department of Hawaiian Home Lands in taxes) is made to the legal representative of the deceased lessee. Should a lessee die leaving a spouse or child not qualified to succeed to the homestead but there are qualified relatives to succeed to the homestead, no such payout is authorized. In this case the Hawaiian Homes Commission designates a qualified relative to succeed to such a homestead and the successor receives the entire value of the homestead interest while the immediate family of the deceased lessee is left with absolutely nothing.

Your Committee finds that as increasing numbers of native Hawaiians with non-native Hawaiian spouses and children are receiving homestead awards, there is a need to provide for the equitable reimbursement of improvements made to such properties.

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

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1712-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1712-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 250-84 Housing and Urban Development on S.B. No. 2057-84

The purpose of this bill is to add a new section to chapter 519, Hawaii Revised Statutes, to provide that in the renegotiation of leases or subleases of real property in multi-family apartment use, the following presumptions would apply: (1) the highest and best use of the improved leased or subleased parcel is the actual use to which the parcel is being put during the lease term if the improvements were constructed in accordance with plans approved by the lessor or sublessor prior to construction, and (2) where the parcel has been subdivided in accordance with plans approved by the lessor or sublessor, the fair market rental or fair market value of that parcel will be the aggregate of the values of the individual lots as subdivided at the commencement of the lease or sublease. If subdivided lots have been consolidated to be used for a multi-family apartment, these lots will be deemed to be one lot.

Your Committee received numerous testimonies from lessees in support of this bill. Many testified their rents increased 500 to 700 per cent at the lease reopening. The excessive increases in rents are due to the current practice of landowners ignoring the lease and improvements and considering the highest and best use of the property as if it were vacant and unencumbered.

The first presumption of the bill may benefit both lessor and lessee. It would benefit the lessor if the demised land is downzoned after an apartment building has been constructed. Conversely, it would benefit the lessee if the parcel is upzoned subsequent to construction of the improvement.

The second presumption considers the costs of infrastructure incurred by the lessee. If the parcel is appraised as one lot rather than several subdivided lots, the lessee is not given credit for the value of his subdivision improvements.

The proposed bill does not change the terms of existing ground leases. It merely creates statutory presumptions which apply (1) where the ground lease does not provide a precise guideline for determining lease rent, or (2) where a guideline provided in the lease is ambiguous or contradictory, or (3) when the presumptions reasonably reflect probable or implied intent of the parties when the lease was entered into.

Further, as to leases entered into after this measure is enacted, it is not the intent of this bill to require renegotiation provisions to contain the

presumptions set forth in the bill. The parties are free to negotiate as to the method of valuation to be used in the renegotiation process and the provisions of this bill would apply only in circumstances where the intent of the parties is unclear and open to interpretation.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. 2057-84 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. 251-84 Government Operations and County Relations on S.B. No.
2128-84

The purpose of this bill was to require that liquor purchased at an establishment with a dispenser's license be consumed on the premises and to allow, under certain conditions and on a one time trial basis, dancing facilities and music at standard bar establishments.

Your Committee received testimony from the Liquor Control Administrator of the Department of Finance, Liquor Commission, City and County of Honolulu, which stated that while there already is existing law which permits dancing facilities and music at standard bars under certain circumstances and on a one time trial basis, the present statutory language may be erroneously interpreted to be a prohibition of radio, juke box, television or any other system of recorded music as background music. It was therefore recommended that the language of Section 281-47, Hawaii Revised Statutes, be amended to avoid the creation of such a prohibition against all recorded music at standard bars. The Liquor Control Administrator also testified that Section 281-31, Hawaii Revised Statutes, as amended by this bill, reinstates necessary language which was inadvertently deleted by a 1983 amendment and which requires that liquor purchased from an establishment with a dispenser's license be consumed on the premises of the establishment.

Your Committee has amended the bill to:

1. Clarify that a standard bar with dance facilities may provide live or recorded music for the purpose of dancing by its patrons and eliminate any language which may be interpreted to prohibit recorded music for other than dance purposes at a standard bar; and
2. Provide 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. 2128-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2128-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Fernandes Salling, B. Kobayashi and Solomon.

SCRep. 252-84 Government Operations and County Relations on S.B. No.
1881-84

The purpose of this bill is to provide that leaving a derelict vehicle, as defined in section 290-8, Hawaii Revised Statutes, on any public property or on private property without authorization, is a petty misdemeanor. The bill also clarifies that abandoned vehicle is defined in Section 290-1.

Presently, section 290-12, Hawaii Revised Statutes, provides that anyone who leaves an abandoned vehicle, as defined in section 290-8, Hawaii Revised Statutes, on any public property or private property without authorization is guilty of a petty misdemeanor. However, section 290-8, defines derelict vehicle, rather than an abandoned vehicle. Section 290-1, is the section that defines abandoned vehicles. According to testimony by the Honolulu Police Department, because section 290-8, Hawaii Revised Statutes, is construed to be merely a definition of a derelict vehicle, enforcement of violations regarding derelict vehicles has characteristically been pursued under the littering law, section 339-4, Hawaii Revised Statutes. During 1983, 2,322 citations were issued for abandoned vehicles under the City and County of Honolulu Traffic Code, and

only 97 citations were issued for violation of section 290-12, Hawaii Revised Statutes.

Your Committee finds that by including derelict vehicles within the purview of section 290-12, Hawaii Revised Statutes, there will be a clear statutory basis for prosecuting violations regarding derelict vehicles.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of S.B. No. 1881-84 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 Abercrombie, Fernandes Salling, B. Kobayashi and Solomon.

SCRep. 253-84 Consumer Protection and Commerce on S.B. No. 1560-84

The purpose of this bill is to provide for the revocation, limitation or suspension of any license to practice medicine and surgery by the Board of Medical Examiners when a licensee fails to report to the Board any disciplinary action taken against the licensee in another jurisdiction.

Testimony received by the Board of Medical Examiners indicated that in today's highly mobile society, "many physicians maintain licenses in two or more jurisdictions". Over 1,000 Hawaii licensed physicians fall under this category, and the Board has experienced cases in which such licensees have had disciplinary problems in the other jurisdictions without the Board's knowledge.

Your Committee concludes that this measure will assist the Board in exercising closer supervision over its multi-jurisdictional licensees.

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. 1560-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1560-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and Yamasaki.

SCRep. 254-84 Consumer Protection and Commerce on S.B. No. 1549-84

The purpose of this bill was to regulate the health club industry and protect consumers from unfair or deceptive practices by providing enforcement authority to the Office of Consumer Protection.

Recently, the closing of various health club facilities has imposed financial hardships upon consumers and health clubs within the State. Existing statutory provisions are inadequate to address the problem or correct and prevent abuse or violations of a health club contract.

Your Committee finds that this bill will protect health clubs and consumers by requiring disclosures of equipment and services available, restricting terms of membership, requiring escrow or surety bonds in cases where health clubs collect money prior to becoming fully operative, and establishing a right of cancellation of health club contracts by consumers.

As a result of testimony received and considered by your Committee, the following amendments were made to the bill:

- (1) The definition of health club was clarified;
- (2) Exempt from the provisions of the proposed law, a) health clubs that began offering health club contracts and any other contracts in the state prior to December 31, 1969 and b) those health clubs with social and recreational facilities which comprise at least seventy-five percent of the total facilities available to members. Concurrently, a definition of social and recreational facilities was added to § -2.
- (3) § -3 was separated into two separate sections (§ -3 and § -4) for the purpose of clarity;

- (4) A new § -5 was added which specifies certain information which must be included in health club contracts;
- (5) § -4 was renumbered to § -6 and the cancellation period for contracts was raised from three days to five business days;
- (6) The cancellation period was further amended by having the period run from the date the buyer signs the contract rather than the date the buyer receives the contract. This change does not materially change the cancellation period as the bill requires that the contract be issued to the buyer at the time the buyer signs the contract;
- (7) The time limit for refunds was increased from fifteen to thirty days, to allow health clubs a reasonable period to comply with the refund requirement;
- (8) A new subsection (d) was added to section -6, to allow health clubs to condition the refund upon the return of membership cards or any evidence of membership.
- (9) The maximum time limit allowed for the duration of a contract was increased from eighteen to thirty-six months, to allow health clubs to offer longer term memberships at discounted prices;
- (10) The minimum amount required for renewal of a contract was decreased from twenty-five per cent to ten per cent of the cash price of the original contract. This provision was designed to prevent clubs from evading the prohibition against lifetime memberships; however, your Committee finds that a twenty-five per cent minimum renewal fee would result in increased costs to consumers and that a ten per cent minimum would effectively serve the purpose of the provision and allow consumers to renew contracts at reasonable rates;
- (11) § -7 was renumbered to § -9 and the language reworded for the purpose of clarity;
- (12) The time period for a health club to be operative subsequent to a buyer signing the contract was increased from six months to one year. The purpose of this amendment is to allow more flexibility for clubs to obtain financing for their operations;
- (13) The time limit for responding to a request for a statement of the escrow account was increased from three to fifteen business days for requests originating in the State and thirty days for out-of-State requests, to allow health clubs adequate time to comply with such requests;

Your Committee further amended the bill by making technical and language changes for the purposes of clarity and compliance with recommended drafting style which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1549-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1549-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and Yamasaki.

SCRep. 255-84 Consumer Protection and Commerce on S.B. No. 2100-84

The purpose of this bill is to require that publishers of a telephone directory list only contractors who are licensed under Chapter 444, Hawaii Revised Statutes.

Currently, there is no requirement that contractors be licensed in order to advertise in a telephone directory. This bill would require the License Board to make available to publishers the license list, provide immunity to the publisher and telephone company, and allow the License Board to send notices of violation to publishers and hold hearings requested by individuals accused of the violation.

Your Committee heard favorable testimony from the Contractors' License Board, the Construction Industry Legislative Organization, Inc., and the Sub-contractors' Association of Hawaii.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2100-84 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 Fernandes Salling, Kawasaki, Kuroda and Yamasaki.

SCRep. 256-84 Consumer Protection and Commerce on S.B. No. 1740-84

The purpose of this bill is to extend the time for repeal of the Board of Nursing until December 31, 1990. The bill also addressed concerns expressed by the Legislative Auditor's Sunset Report on Nursing (Report no. 84-4).

Section one of the bill would permit the continued regulation of nursing in Hawaii. Your Committee heard testimony from the Hawaii Nurses Association, the University of Hawaii School of Nursing, and the Board of Nursing concurring with the Legislative Auditor's finding that the practice of nursing encompasses many life threatening situations and that there is a continued need to regulate both the practice of nursing and the training of nurses to ensure the protection of public health and safety.

Section two of the bill would require the Board of Nursing to monitor laws of other states and make recommendations to the Legislature on amendments to the definition of "the practice of nursing." The Legislative Auditor found that the definition of nursing in Chapter 457, Hawaii Revised Statutes, is almost three decades old and does not completely reflect current nursing practices. Your Committee finds a need for the Board of Nursing to monitor the regulation of expanded and specialized nursing practice in other states and evaluate and suggest to the Legislature appropriate amendments that could be made to the definition of nursing in order to enhance nursing practice in Hawaii.

Section three of the bill would repeal the requirement that the executive secretary of the board be knowledgeable and experienced in nursing. It would further require the executive secretary to maintain a manual of policies and procedures of the Board of Nursing. The Legislative Auditor found that the policies and procedures manual that board members presently possess is outdated and its use as a reference is limited. Your Committee concurs in the need for an updated policies and procedures manual and has received the assurances of the Board of Nursing that its manual is presently being updated.

Section four of the bill would prohibit the Board of Nursing from requiring faculty members of nursing education programs to receive the board's approval prior to teaching. Your Committee heard testimony from the University of Hawaii School of Nursing that present requirements to submit transcripts and course descriptions are a hindrance to the hiring of prospective faculty, particularly those who are out-of-state. In addition, the Board's review and approval of faculty infringes on the review of the Board of Regents, who have been authorized to appoint such deans, directors, and other members of the faculty and employees required to carry out the purposes of the University.

Your Committee has amended the bill by changing the requirement that the Board's executive secretary be knowledgeable and experienced in nursing, to knowledgeable and experienced in the medical profession. This amendment provides the board with more flexibility in selecting an executive secretary who possesses an adequate professional background to fulfill the requirements of the position.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1740-84, as amended herein, and recommends that it pass Second Reading in the form attached as S.B. No. 1740-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling and B. Kobayashi.

SCRep. 257-84 (Joint) Education and Transportation on S.B. No. 1766-84

The purpose of this bill is to permit a school vehicle which is less than

10,000 pounds gross vehicle weight rating owned by a day care center, child care facility, Headstart program, or preschool to be in compliance with the Department of Transportation (DOT) vehicle and equipment safety standards, and to require the aforementioned centers, facilities, programs and preschools to meet the same standards as a motor vehicle of the same type which is used for non-school related purposes.

Currently, to comply with the recommendations of the National Safety Board, day care centers, child care facilities, Headstart programs and preschools are required to purchase a \$30,000 plus federally approved vehicle. Given the tight fiscal constraints under which most of these centers and facilities operate, the capital expense involved in such a vehicle purchase would be prohibitive.

Your Committees heard testimony from the DOT and numerous day care centers, child care facilities, and preschools supporting the intent of the bill. It was noted that the National Transportation Safety Board recommendations took into account factors such as ice, snow, and distance which do not affect driving safety conditions in Hawaii. The groups testified that since purchasing a \$30,000 plus vehicle was not possible, they would have to cancel all excursions for the children, an important component in a curriculum that seeks to adequately prepare children for entrance into a school setting.

Your Committees are in agreement as to the value and necessity of safe transportation for young children in these situations. The need for standards regulating vehicles used for school related purposes is recognized. Your Committees further noted that it is the intent of this legislation that every vehicle or bus of day care centers, child care facilities, preschools, and the like, be in the color prescribed by rules established by the DOT.

To address the concerns of the affected facilities and schools and to maintain safe transportation standards, your Committees have amended the bill as recommended by the DOT by deleting subsection (c) of the bill and adding under subsection (b): "provided that the rules and standards used in the transportation of pupils of a day care center, child care facility, Headstart program, and preschool will permit the use of small school buses or vans."

Your Committees have made other technical changes for consistency with existing rules.

Your Committees on Education and Transportation are in accord with the intent and purpose of S.B. No. 1766-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1766-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Holt.

SCRep. 258-84 (Joint) Transportation and Judiciary on S.B. No. 524

The purpose of this bill is to strengthen the statutes relating to alcohol and highway safety.

This bill proposes to amend existing law to:

1. Increase the legal age for drinking of alcoholic beverages from eighteen years to twenty-one years.
2. Provide for mandatory permanent revocation of a license for refusing to submit to testing for blood alcohol content whether or not there may be injury to another person or upon conviction for negligent homicide or inattention to driving when the driver has caused injury to another person while under the influence of intoxicating liquor. Present law has no provisions for permanent revocation.
3. Require the surrender of a license issued to an unlicensed driver arrested for driving under the influence of intoxicating liquor where the license was issued during the time between the arrest and any conviction.
4. Increase the age at which a person may apply for a driver's license from seventeen to eighteen years of age.
5. Require mandatory revocation of a license upon conviction for negligent

homicide or inattention to driving when the driver was under the influence of intoxicating liquor and caused injury to another and delete present provisions for mandatory revocation of a license upon conviction of manslaughter resulting from the operation of a motor vehicle.

6. Amend the point penalty system to include additional points for multiple convictions for driving under the influence of intoxicating liquor.
7. Amend the point penalty system to increase the minimum amount of points to be assessed for various traffic violations.
8. Increase the time period during which points may accrue.
9. Amend the implied consent law to include mopeds and to increase the penalties under this law.
10. Grant immunity from civil liability to physicians, licensed laboratory technicians or registered nurses who withdraw blood for blood alcohol tests at the request of a police officer.
11. Provide immediate surrender and possible permanent revocation of a person's license if the driver refuses to submit to testing where the case involves an accident resulting in injury or death to another.

Your Committees heard favorable testimony from the Department of Transportation, the City and County of Honolulu Police Department, and Mothers Against Drunk Driving. Your Committees, after hearing the testimony, have amended the bill as follows:

1. Deleted Section 1 of the bill which increased the legal age for drinking alcoholic beverages to twenty-one years. Your Committees find that the importance of this issue of the legal age for drinking warrants further future discussion of the necessity and impact of such a law.
2. Changed Statutory language to require the mandatory revocation under Section 286-124 be permanent.
3. Retained current provisions for mandatory revocation of a license upon conviction for manslaughter resulting from the operation of a motor vehicle.
4. Changed the language of the point penalty system with respect to multiple convictions for driving under the influence of intoxicating liquor to provide for consideration of convictions within "five" years of each other instead of "four" years.
5. Changed the language of the point penalty system such that the court may assess points even though a traffic violation was due to the size or nature of the vehicle or the necessity of the driver following a specific route or schedule in the course of his employment. Under present law, the court has no discretion in this regard and was mandated not to assess any points in such cases.
6. Increased the amount of the fine which may be assessed by the court for a person who fails to report for a review of his driving record or fails to attend a driver retraining course ordered as a result of a court review of his record. Previously, the law provided for a fine of "not more than \$100". This amendment provides for a fine of "not less than \$100".
7. Deleted provisions relating to the implied consent statutes since these sections have been incorporated in S.B. No. 1583-84, S.D. 1.
8. Changed the effective date of the bill to July 1, 1984 and deleted language which was made unnecessary by deletion of the provision for increasing the legal age for drinking alcoholic beverages.
9. Included nonsubstantive changes for the purpose of clarity and conformity with recommended legal style.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of S.B. No. 524, as amended herein, and recommend that it

pass Second Reading in the form attached hereto as S.B. No. 524, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Holt.

SCRep. 259-84 Transportation on S.B. No. 1820-84

The purposes of this bill are: 1) to permit the use of moneys in the "bikeway fund" for the promotion of bicycling transportation and recreation; 2) to change the definitions of "bicycle", "driver", and "vehicle" for purposes of Chapter 286, Hawaii Revised Statutes; 3) to change the definitions of "bicycle" and "vehicle" for purposes of Chapter 291C, Hawaii Revised Statutes; 4) to make numerous amendments to Chapter 291C, the Statewide Traffic Code, relating to bicycles; and 5) to permit bicycle racing on public highways, when the race is approved by local authorities.

Your Committee received testimony from the Hawaii Bicycling League, Council member Welcome Fawcett, the Honolulu Police Department, and the League of American Wheelmen favoring the intent of this bill, to treat bicycles as vehicles for purposes of the Statewide Traffic Code. Your Committee finds that it is appropriate that bicyclists be accorded generally the same rights and be subject to same duties as the drivers of "vehicles", as they are now defined in the Statewide Traffic Code.

Your Committee finds that moneys in the bikeway fund should not be used solely for bikeway capital improvement projects and maintenance and for debt servicing. Your Committee believes that bicycling education and promotion are appropriate areas for the expenditure of bikeway fund moneys.

Your Committee finds that Section 3 of the bill, proposing amendment of the definitions of "bicycle", "driver", and "vehicle" in Section 286-2, Hawaii Revised Statutes, would impose an undue burden upon bicyclists and would create unnecessary administrative expense. Accordingly, your Committee has amended the bill by deleting Section 3 and renumbering Sections 4, 5, 6, and 7 of the bill to be new Sections 3, 4, 5, and 6, respectively.

Section 4 of the bill as received by your Committee was extensively amended as follows:

- a) Section 4-1 of the bill as received was changed to Section 3 in the S.D. 1. Your Committee was concerned that the definitions of "bicycle", as proposed in section 291C-1 of the bill would include children's tricycles, bicycles with training wheels, and bicycles designed for small children. Thus, children would be subject to the somewhat burdensome duties of a vehicle on the road rather than on a sidewalk. A definition of "toy bicycle" in this section has been added. As the bill was referred to your Committee, it would have amended the definition of "vehicle" in section 291C-1, subsection (45), to include all devices moved by human power upon which or by which a person or property may be transported or drawn. The bill has been amended to explicitly include mopeds and bicycles in the definition of "vehicle" and to explicitly exclude "toy bicycles and devices other than bicycles moved by human power" from the definition;
- b) A new section designated as Section 4 in the S.D. 1 was added. Persons operating bicycles are not required by law to have a license or permit to drive. However, section 291-14(a) requires drivers of vehicles involved in certain accidents to exhibit, upon request, a driver's license or permit to the police. Your Committee has amended this section so that the bicyclist need not exhibit a driver's license or permit;
- c) A new section designated as Section 5 in the S.D. 1 was added. Section 291-50, presently provides that drivers of motor vehicles shall not follow other vehicles more closely than is reasonable and prudent. This requirement should apply to all vehicles and therefore, your Committee has amended this section to forbid the drivers of any vehicles to follow too closely;
- d) Section 4-2 of the bill as received was deleted. Section 291C-81, is deleted from the bill as your Committee has decided to keep the present language of this section in the statutes;

- e) Section 4-3 of the bill as received has been deleted. Part XIII, Chapter 291C, deals not only with bicycles but with play vehicles as well. Therefore, the proposed amendment of the title of part XIII should not be made;
- f) Section 4-4 of the bill as received has been deleted to remove language already covered in the statutes;
- g) Section 4-5 of the bill as received has been deleted. Your Committee received testimony from the Honolulu Police Department and the State Department of Transportation advising against permitting a bicyclist to carry a child in a backpack or sling. Your Committee concurs and therefore, item 5 of section 4 has been deleted;
- h) A new section designated as Section 6 in the S.D. 1. has been added. Your Committee has further amended the bill to add a change to section 291C-84 to provide special rules relating to turn signals for bicycles and mopeds;
- i) A new section designated Section 7 in the S.D. 1. has been added. Section 291C-102 is amended to provide that no vehicle, whether or not a motor vehicle, may be driven at a speed greater than a maximum speed limit; the minimum speed limit provisions would continue to apply only to motor vehicle;
- j) A new section designated Section 8 in the S.D. 1. has been added. Section 291C-103 presently prohibits racing of vehicles. Because of the new section in Chapter 291C relating to bicycle racing, 291C-103 has been amended to exempt from the ban provided in that section those bicycle races permitted under the new section in Chapter 291C;
- k) A new section designated Section 9 in the S.D. 1. has been added. Your Committee received testimony that the driving of bicycles on sidewalks is hazardous to pedestrians. However, your Committee is concerned that recreational bicyclists and children, particularly on their way to and from school, should be permitted to ride bicycles on sidewalks so long as they do so in a responsible manner. Your Committee has amended section 291C-123, relating to driving upon a bikeway or sidewalk to deal solely with driving upon a bikeway and to add a new section dealing solely with driving upon sidewalks;
- l) Section 4-6 in the bill as received was designated Section 10 in the S.D. 1. Your Committee has amended section 291C-144, to preclude drivers of bicycles and mopeds from clinging to "any other vehicle".

Similarly, the use of bicycle trailers would be hazardous to both the bicyclist and to the contents of the trailer, possibly a child. Therefore, item 6, section 4 has been deleted as well;
- m) Section 4-7 of the bill as received was designated Section 11 in the S.D. 1. Section 4-7 of the bill would amend subsection 291C-145(a), to require mopeds traveling at less than the speed of the traffic flow to ride as near to the right side of the roadway as practicable in most traffic situations. The intent of this proposed amendment is to conform the requirement for mopeds to that of bicycles. Your Committee finds that section 291C-196(a) already imposes this requirement on mopeds and so deletes the reference to mopeds.
- n) Section 4-8 of the bill as received was designated Section 12 in the S.D. 1.
- o) Section 4-9 of the bill as received was designated Section 13 in the S.D. 1.
- p) Section 5 of the bill as received was designated Section 14 in the S.D. 1. Your Committee received further testimony that present law does not allow for bicycle racing on the highways. Your Committee has amended this provision to require that when bicycle racing takes place on State highways, the State Director of Transportation must approve the racing event.

q) Section 6 of the bill as received was designated Section 16 in the S.D. 1.

r) Section 7 of the bill as received was designated Section 17 in the S.D. 1.

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

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1820-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1820-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 260-84 Economic Development on S.B. No. 2184-84

The purpose of this bill is to clarify the "grandfathering" clause in Act 296, Session Laws of Hawaii, Regular Session of 1983, by establishing geothermal resource subzones on areas covered by geothermal mining leases approved before June 14, 1983; and to clarify other matters contained in the Act.

Act 296, passed in 1983, established a process for the Department of Land and Natural Resources to designate geothermal resource subzones prior to geothermal development. This process is presently underway, but is not expected to be completed for another nine months. This means a delay in development of geothermal resources for companies which have already drilled wells and may result in their withdrawal from geothermal development.

The bill as originally drafted, was to designate geothermal resource zones in areas covered by geothermal mining leases to allow existing operations to proceed with the exploration and development of geothermal resources.

Your Committee amended the bill by deleting the designation geothermal resource subzone. Language was added to allow geothermal developers with any state or county land use permits, special use permits, a geothermal mining lease within an agricultural district upon which a geothermal well has been drilled prior to June 14, 1983 or a conservation area use application approved by the Board of Land and Natural Resources or other governmental land use authority prior to June 14, 1983, to continue to use their permits for exploration.

The insertion of this "grandfather" clause is intended to provide the various counties the statutory framework from which to develop criteria and rules for geothermal resource permits and not to undermine the efforts or authority of the Department of Land and Natural Resources in the designation of geothermal resource subzones.

The bill proposes other technical changes for the purpose of further clarifying the intent of the statute.

Your Committee further amended the bill by: (page and line numbers refer to the bill as received)

1) Deleting the bracketing on page 3, lines 10 and 17 to retain the Board of Land and Natural Resource's or the county's authority to conduct a contested case hearing prior to the issuance of a geothermal resource permit.

2) Adding brackets on page 1, line 15 and page 3, line 14 around ", and distribution" to conform this section to the other proposed amendments in the bill. Also, the deletion is appropriate since the distribution of electrical energy produced from geothermal resources must extend beyond the geothermal resource zones.

3) The phrase "appropriate county agency" is replaced with "county planning commission" on page 3, line 10. This amendment clarifies the agency responsible. The county planning agency is the agency designated to issue Special Use Permits and conducts hearings on such permit applications.

4. Deleting proposed language from page 3, line 17 to page 6, line 2. This deletes the proposed change in the role of the counties in permitting geothermal activities. The rationale for deleting this section is to maintain conformity among the counties until the geothermal subzones have been designated. This would

result in statewide conformity in the development of geothermal activities.

Your Committee finds that the development and use of Hawaii's geothermal energy resources is of critical importance to the energy security of this State, and important to its economic future. Geothermal energy represents a realistic option in the near future for a major source of baseload power, locally produced in an environmentally acceptable manner. Significant progress has been made to date by the three developers in the State who have committed considerable financial resources to their efforts, and who have demonstrated their concern for conducting their activities in a responsible way.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2184-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2184-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Fernandes Salling.

SCRep. 261-84 Consumer Protection and Commerce on S.B. No. 2156-84

The purpose of this bill as received by your Committee was to provide protection to shareholders of Hawaii corporations with 100 or more shareholders from the adverse affects of business transactions between the corporation and a major stockholder of the corporation.

The purpose of this bill has been amended by the Committee to afford all shareholders of Hawaii corporations (1) registered under the Securities Exchange Act of 1934, (2) with 5% or more of its voting stock beneficially owned by Hawaii residents, (3) having its principal place of business or principal executive offices within this State, and (4) with substantial assets within this State, an increased level of protection from the harmful and negative effects that may occur subsequent to an acquisition by a shareholder of a controlling interest in the corporation by (A) providing the shareholders with an opportunity to review and vote on certain post acquisition transactions and (B) ensuring that such shareholder will receive a fair price for his or her stock if an offer is made to the remaining shareholders. This bill is not intended to prevent or preclude tender offers or acquisition of shares, but to afford protection to Hawaii corporations and Hawaii shareholders.

In 1982 the United States Supreme Court in the James Edgar v. MITE Corporation and MITE holdings, Inc., 73 L Ed 2d 269, invalidated portions of an Illinois business takeover statute. Edgar held that State regulation of tender offers taking place outside of the State are in violation of the Commerce Clause. The Court stated that while protection of local investors is a legitimate state objective, the State has no legitimate interest in protecting non-resident shareholders. The case had far reaching effects for states which required pre-acquisition determinations by the State government. While Hawaii's statutes had not been invalidated there is a likelihood that should a challenge be made to our existing provisions as well as those of the Hawaii Business Corporation Act, scheduled to take effect on July 1, 1986, Hawaii may find itself without sufficient protection for the shareholders of our Hawaii corporations. We have been informed through oral and written testimony of the legislation passed in other States since the Edgar decision, notably Ohio, Pennsylvania, Delaware, and Maryland. Your Committee had reviewed the various proposals contained in testimony given at public hearings and had requested all interested parties to meet and establish a consensus draft. The final draft arrived at by consensus of all of the parties addresses two different but equally important situations in which a shareholder's interest in a corporation may be jeopardized by post acquisition maneuvering of a takeover bidder.

The first approach addresses what is known in the business world as the "creeping acquisition." This is a situation in which a shareholder interested in obtaining control of a corporation gradually and methodically increases his holding in the corporation over a period of time, generally, unbeknownst to the other shareholders, with the intent to acquire enough voting power necessary to wage a proxy contest for control of the corporation.

The second approach addresses a situation wherein a shareholder attempts to influence the corporation to enter into a business combination with either himself or a related entity in order that he or she may realize profits on the transfer or sale of the assets of the corporation.

Your Committee has reviewed the above proposals and approaches and recognizes the necessity of providing Hawaii corporations and its shareholders with protection against such threats. We support the intent and purpose of the consensus draft.

This Committee finds that S.B. No. 2156-84 will (i) increase the level of protection to all shareholders of Hawaii corporations from the possible negative effects of a takeover attempt, (ii) provide stability to the operation, management and value of a target company, (iii) assure that all shareholders of publicly traded Hawaii corporations will receive fair and equitable treatment, (iv) encourage the participation of shareholders in reviewing and approving certain post-acquisition transactions, and (v) will not present a restriction upon or preclude tender offers.

Upon extensive discussion and review by interested parties, your Committee has amended the bill as follows:

1. SECTION 1 of the bill has been amended to clearly set forth the newly stated purpose of the bill for the reasons set forth above.

2. SECTION 2 has been added to amend Part IV, chapter 416, Hawaii Revised Statutes, by amending its heading to read "VOTING, MEETINGS AND BY-LAWS".

3. SECTION 3 has been added to the bill which would amend Part IV of Chapter 416, Hawaii Revised Statutes, by adding new sections addressing the issue of "Creeping Acquisitions." Your Committee has limited the applicability of this section to Hawaii corporations (1) registered under the Securities Exchange Act of 1934, and (2) having 5% or more of the voting stock beneficially owned by Hawaii residents, and (3) having its principal place of business or principal executive offices within this State and (4) having "substantial assets" within this State. Your Committee intends that the term "substantial assets" mean that a corporation or its subsidiaries maintain a least 15% of its total gross assets or assets having a fair market value of \$5 million within this State. Your Committee feels that these restrictions would protect those corporations having large quantities of undervalued Hawaiian land assets which may be the subject of a takeover bid. The new section established certain restrictions and requirements in the event of a "Control Share Acquisition", which is defined to mean the acquisition by any person of the right or entitlement to exercise of the following percentage outstanding shares of the corporation ("Issuer"):

- A. 10% but less than 15%
- B. 15% but less than 20%
- C. 20% but less than 25%
- D. 25% but less than 30%
- E. 30% or more

At each threshold the "Acquiring person" must file with the issuer a statement listing his identity, the number of shares he or she owns including shares owned by any "Affiliate" or "Associate" and a detailed history of prior purchases for the preceding five years, the threshold, the terms of the acquisition, and a statement that the acquisition will not be contrary to law and that he or she has the financial capacity to make the acquisition.

These provisions are not applicable to the following:

(a) Any person who as of the effective date of the Act owns twenty per cent or more of the stock of the issuer;

(b) Any person who as of the effective date of the Act owns twenty per cent or more of the stock of the issuer and after the effective date of the Act acquires more stock;

(c) Any person who acquires enough stock to reach a threshold level by way of contract if the contract exists before the effective date of the Act;

- (d) Acquisition of stock by the laws of descent and distribution;
- (e) Acquisition of stock pursuant to satisfaction of a pledge or other security interest.
- (f) Acquisition pursuant to a merger where the issuer is a willing party.

Your Committee has determined that any person holding twenty per cent of the stock has a significant interest in the company. Your Committee has also determined that at twenty per cent the shareholder exercises effective control of a company. Therefore, in order not to effect the status quo existing in any of the affected companies your Committee has included items (a) and (b) as shown above as exemptions.

Your Committee has also established the procedural requirements for calling a special shareholder meeting and for disseminating notice of any proposed offering by the acquiring person to purchase shares pursuant to this section. Your Committee has also provided a section to allow the board of directors of the issuer to opt out of the protections of this section if they determine that it would be inconsistent with any national securities exchange or listing.

4. SECTION 4. The original SECTION 2 has been amended and broadened into a new SECTION 4, which adds a new part to the Hawaii Revised Statutes, entitled, "SPECIAL VOTING REQUIREMENTS". This section is again applicable to the same types of Hawaii corporations as specified in SECTION 3 above. The new section establishes certain restrictions on shareholders who own ten per cent or more of the stock of a company ("interested shareholder"). Because an interested shareholder may hold a controlling interest he may influence the company to enter into certain types of business combinations. These business combinations include:

- (a) A merger or consolidation with any interest shareholder or its affiliate company;
- (b) Sale, lease, exchange or transfer of the assets of the company (having a fair market value of \$1,000,000 or more) to the interested shareholder or its affiliate company;
- (c) Issuance or transfer by the corporation or its subsidiary of any securities of the corporation to the interested shareholder or its affiliate company;
- (d) Adoption of any plan or proposal for the liquidation or dissolution of the corporation proposed or on behalf of the interested shareholder or its affiliate company;
- (e) Any reclassification of securities of the corporation which has the effect of increasing the proportionate share of outstanding share of stock of the company or its subsidiary which is owned by the interested shareholder or its affiliate company.

If the company engages in any of the above-mentioned business combinations it must first receive an affirmative vote of at least seventy-five per cent of the outstanding stock of the corporation and the affirmative vote of the majority of the voting stock held by persons other than the interested shareholder or its affiliate company.

A business combination shall require only the affirmative vote provided by law and not the super-majority vote if:

- (a) The business combination is approved by a majority of the board of directors (not including the vote of any interested shareholder directors); or
- (b) The shareholders of the corporation have received a fair price for their shares.

Your Committee has also provided further language to ensure that these provisions will be incorporated into the Business Corporation Act schedule to take effect in 1986.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2156-84 as amended herein, and recommends

that it pass Second Reading in the form attached hereto as S.B. No. 2156-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, Kawasaki, Kuroda and Yamasaki.

SCRep. 262-84 Consumer Protection and Commerce on S.B. No. 1562-84

The purpose of this bill is to empower attorneys in the Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs to exercise the authority granted to the attorney general and county attorneys under Section 92-51, Hawaii Revised Statutes. The bill also clarifies the authority of various boards and commissions to impose fines in appropriate disciplinary cases.

Section 92-51, Hawaii Revised Statutes, provides for the availability of public records for public inspection except in certain instances. Testimony by the Department of Commerce and Consumer Affairs indicated that this bill would allow attorneys retained by the Department to represent it in cases involving records and documents within the custody and control of the Regulated Industries Complaints Office. It was noted that upon occasion the Department is the subject of a subpoena duces tecum, making such representation necessary by the deputy attorney generals assigned to the department. Passage of the bill would contribute to the departmental efficiency of the Regulated Industries Complaints Office.

With regard to the imposition of fines by boards and commissions, your Committee obtained the opinion of the Attorney General and was advised that either the boards over which the Department of Commerce and Consumer Affairs exercises jurisdiction already have the authority to impose fines or that this bill will grant the boards the power to impose fines.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1562-84 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 Fernandes Salling and Yamasaki.

SCRep. 263-84 (Joint) Transportation and Consumer Protection and Commerce on S.B. No. 1693-84

The purpose of this bill is to provide for consumer safety regulations relating to the rebuilding or restoration of wrecked motor vehicles.

Currently, rebuilt vehicles are not strictly regulated under the Hawaii Revised Statutes. This bill would strengthen and provide for consumer safety regulations dealing with rebuilt automobiles. This bill 1) requires a salvage certificate be obtained and a bond be posted in order to work on salvaged vehicles, 2) that a rebuilt vehicle be certified as to its safety before it is operated again on public highways, 3) that the registration and title of a rebuilt car state that it is rebuilt, 4) that the County Finance Director examine registration certificates as to the truthfulness of statements regarding the condition of the vehicle to be registered, 5) that within 10 days of transfer of ownership to an insurance company as salvage, an application for salvage certificate be made, and that the Finance Director issue such certificate to the purchaser or insurance company upon certain qualifications, 6) that a rebuilt vehicle be inspected by a registered and certified motor vehicle repair dealer, and 7) that the bond posted shall be forfeited if the Director of Finance has due cause.

Your Committees heard favorable testimony from the Department of Transportation and the Hawaii Business League which suggested deleting the prohibition in the bill that restricted rebuilding a vehicle on a cash value damage percentage basis and adding the qualification that for a certificate of inspection to be issued, the original vehicle manufacturer's specifications and tolerances be adhered to by the rebuilder.

Your Committees agree with these suggestions and have amended the bill to reflect them.

Your Committees have further amended the bill by adding a new section defining "rebuilt vehicle" and making technical changes having no substantive effect.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 1693-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1693-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Fernandes Salling, Kuroda, Solomon and Yamasaki.

SCRep. 264-84 Consumer Protection and Commerce on S.B. No. 2085-84

The purpose of this bill was to clarify the relationship between common elements as specified under section 514A-3(5), Hawaii Revised Statutes, and the voting rights of apartment owners in a horizontal property regime.

The present law provides that a condominium association's declaration may designate an area that would otherwise be a common element as an apartment. This would allow a person who owns a trash chute or parking space to vote at association meetings. Your Committee finds this practice to be deceitful and duplicitous and contrary to the intent and purposes of the laws on horizontal property regimes.

The bill remedies this problem by prohibiting owners of areas that would otherwise be common elements to vote at association meetings.

Besides clarifying the relationship between common elements and voting rights, the bill also provides the following:

1. Prohibits remuneration by apartment owners for access to their condominium apartments;
2. Requires developers to provide mailboxes to apartment owners of apartments built, substantially renovated, or converted to a condominium after the effective date of this bill;
3. Includes in the definition of common element, commercial activities for which a State excise tax license has not been issued;
4. Unless directed by association members, requires condominium board of directors to consist of at least seven members when there are more than one hundred apartments in the condominium; and
5. Provides voting rights to time share owners.

Your Committee has further amended the bill by:

1. Deleting the paragraph that includes in the definition of common element, commercial activities for which a State excise tax license has not been issued. Your Committee finds this paragraph to be incongruous to both the horizontal property regime statute and the intent of this bill and has removed it entirely;
2. Deleting the new section on voting rights for time share units. Your Committee recognizes the concern of time share holders and finds it more appropriate to address these concerns in another bill;
3. Transferring the new subparagraph in section 514A-3(5) to section 514A-13. This subparagraph lists the areas designated as common elements that cannot be used as a basis for voting at association meetings; and
4. 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. 2085-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2085-84,

S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling, Kuroda and Yamasaki.

SCRep. 265-84 Consumer Protection and Commerce on S.B. No. 1745-84

The purpose of this bill is to extend the existence of the Board of Acupuncture until December 31, 1990, and address concerns expressed by the Legislative Auditor's Sunset Report on Acupuncture (Report No. 84-6).

Under Chapter 26H, Hawaii Revised Statutes, Chapter 436D relating to the Board of Acupuncture is scheduled to be repealed on December 31, 1984. This bill postpones repeal of the chapter until December 31, 1990.

Your Committee finds that there is sufficient potential harm to the public's health, safety, and welfare to warrant the continued regulation of the acupuncture profession. The improper insertion of needles which can cause injury or even death, the use of unsterilized needles, and inadequate antiseptic procedures which have the potential for transmitting communicable diseases, are three important reasons for retaining the Board of Acupuncture.

In addition to continuing regulation of the practice of acupuncture, this bill improves the laws relating to acupuncture by:

1. Requiring acupuncturists to provide prospective patients, prior to treatment, with a written disclosure of the scope, limitations, and potential risks of the practice of acupuncture, possible alternatives to treatment, and to obtain the informed consent of the patient.
2. Allowing students of acupuncture to practice on human subjects under direct supervision. Your Committee concurs with the Legislative Auditor's recommendation that since most other health related professions allow students to practice on human subjects under direct supervision or controlled circumstances prior to licensure, a similar provision should be made for acupuncture students.
3. Prohibiting the Board of Acupuncture from requiring licensure applicants to answer any question which is not listed on an examination form or interviewing an applicant after completion of an examination to determine an applicant's additional or lack of qualifications. The Legislative Auditor's report found that at present, examiners ask licensure applicants questions which are not on the examination form. The Board of Acupuncture's rules allow the Board to ask for additional information without specifying the Board's intentions or purpose. Your Committee concurs with the Legislative Auditor's recommendation to prohibit the Board from obtaining this kind of additional information since the procedure is manifestly unfair and may not be applied uniformly or with objectivity and impartiality.
4. Deleting the requirements that applicants provide proof that they are residents of the State and are of good moral character. Residency requirements have been ruled by the courts to be unconstitutional and your Committee finds the term "good moral character" to be ambiguous.
5. Prohibiting the Board of Acupuncture from requiring applicants to provide a physician's certificate that they are not suffering from any communicable disease, a blood test report for syphilis, and a chest X-ray for tuberculosis. Your Committee concurs with the Legislative Auditor's recommendation that it is unnecessary to single out acupuncturists since other health care professionals are not required to prove that they are free of tuberculosis or syphilis before they are licensed.
6. Requiring the Board of Acupuncture and the Department of Commerce and Consumer Affairs to work jointly towards improving the Board's licensing examinations. The Legislative Auditor's report found numerous problems with the Board's examinations. First, the written examination is unreliable and of questionable validity; second, the oral-practical and clinical examinations are not completely standardized; third, the anonymity of applicants is not protected; and fourth, passing scores on examinations are not based on valid minimum levels of competency. Your Committee

concur with the Legislative Auditor in requiring the Board to take specific measures to improve its examinations.

7. Requiring the Department of Commerce and Consumer Affairs to assist the Board in fulfilling its statutory responsibilities and in redirecting its effort toward improving and implementing standards for licensure and the issuance, suspension, and revocation of licenses. The Department is also required to enlist the assistance of the State Ethics Commission to review the actions of the Board and to suggest how conflicts of interest may be avoided. The Legislative Auditor's report found that some Board members have participated openly in official actions in which they have a personal interest and that the Board has failed to enforce the law and its own rules and have sought changes which would have the effect of restricting entry into the profession. Your Committee concurs with the Legislative Auditor that specific measures need to be taken to improve the performance of the Board.

Your Committee has amended the bill by deleting the requirement that an acupuncturist inform a person being treated of the anticipated results of the treatment, possible alternative forms of treatment, and the possible risks, complications and anticipated benefits of acupuncture treatment. Your Committee agrees with the Legislative Auditor's recommendation that acupuncture should be practiced in an environment of informed consent but finds that the public would be better served if the Board is allowed to determine by rules the necessary requisites of informed consent.

Your Committee has also amended the bill by including a severability clause.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1745-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1745-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling and Yamasaki.

SCRep. 266-84 (Majority) Ways and Means on H.B. No. 530

The purpose of this bill is to grant civil service status to five employees of the planning and development office of the department of agriculture.

Presently, five positions in the department of agriculture authorized by Act 218, Session Laws of Hawaii 1973, for agricultural planning and marketing are exempt from the civil service system. Your Committee finds that to continue the exempt status of these positions would deny deserving employees the opportunities and rights now enjoyed by civil service employees in the department and other public agencies. This bill remedies the situation by granting classified civil service status to the five exempt positions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 530 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senators Kawasaki, Henderson and Soares did not concur.

SCRep. 267-84 (Majority) Ways and Means 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.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 531 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Soares did not concur.

SCRep. 268-84 Ways and Means on S.B. No. 1577-84

The purpose of this bill is to include animal and poultry producers as wholesalers and subject to the 0.5 per cent general excise tax by correcting a technical error in Act 253, Session Laws of Hawaii 1982, to provide a definition of agricultural products in section 237-5, Hawaii Revised Statutes, and to amend section 238-4, Hawaii Revised Statutes, to allow a similar 0.5 per cent use tax for all producers and cooperative organizations.

Your Committee finds that Act 253, Session Laws of Hawaii 1982, extended the 0.5 per cent excise tax rate to agricultural or aquacultural producers, but did not include animal and poultry producers, contrary to the intent of the Act. This bill corrects that technical error by extending the wholesale rate of one-half of one per cent on sales to all "producers".

Your Committee finds that this provision also should be extended to the use taxation of those persons in this area so that the use tax on importations by producers and cooperative associations also shall be 0.5 per cent instead of 4 per cent.

Your Committee finds that there has been some misunderstanding on the part of the Department of Taxation regarding the definition of agricultural products. Without such a definition, the Department of Taxation is able to make such interpretations as it wishes. By providing a definition of agricultural products, there will be certainty on the part of the department and the taxpayer concerning what constitutes agricultural products.

It is the intent of your Committee that the Department of Taxation carry out the intent of this bill to the fullest.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1577-84, 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. 269-84 (Majority) Ways and Means on S.B. No. 1541-84

The purpose of this bill is to authorize the director of the department of commerce and consumer affairs to appoint a time share administrator and to employ other administrative and clerical assistants as may be necessary for the proper administration of chapter 514E, Hawaii Revised Statutes.

Currently, there are no positions funded for the administration of chapter 514E. This bill deals with this situation.

Your Committee finds that in view of the activities of the time sharing industry, an adequate staff is needed to administer the time share program and to implement chapter 514E. Your Committee notes, with approval, that the hiring of staff will require no additional funds, since funds already allocated for positions not yet filled by the department will be sufficient.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1541-84 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Holt.
Senator Kawasaki did not concur.

SCRep. 270-84 Ways and Means on S.B. No. 1546-84

The purpose of this bill is to allow the department of commerce and consumer affairs' business registration division to retain personnel hired under section 416-97, Hawaii Revised Statutes, for an additional year.

Under section 416-97, Hawaii Revised Statutes, a special fund was established in the department to fund at least two temporary business registration assistant positions. The special fund is set to be repealed by statute on July 1, 1985. Act 153, Session Laws of Hawaii 1983, increased the amounts paid into the special fund by raising certain fees paid to the department and providing for part of the increased fees to be paid into the special fund. However, Act 153 provides that after June 30, 1984, payment of a portion of the increased fees to the special fund shall cease and the entire amount of the fees shall be deposited in the general fund. This bill allows continued payment of a portion of the increased fees into the special fund until July 1, 1985, the date on which the special fund terminates under section 416-97.

Extension is needed for several reasons. First, the extra year will allow the department to realize the full benefit of the temporary personnel hired, since much of the department's time thus far has been spent training the new hires. Secondly, the extension will allow the department to better evaluate the feasibility of Act 153 to determine if these positions can be funded by the increased fees. Finally, the extension provides the department with some compensation for the loss of three positions which were reassigned to the business registration division, but were frozen by the State.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1546-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 271-84 Ways and Means on S.B. No. 2093-84

The purpose of this bill is to provide additional flexibility for the banking industry regarding the use of deposited public funds by reducing the collateral or security requirement for such funds from the current level of one hundred per cent to fifty per cent.

Your Committee heard testimony from the Hawaii Bankers Association that this flexibility will enable the banking industry to meet the future borrowing requirements of the community which will result in continued economic activity benefitting the State in the form of employment and tax revenues. In recent years, the convergence of a rapid increase in the level of public deposits, a decline in the relative amount of investment securities as a percentage of total assets, and the dramatic increase in interest rate volatility have resulted in a situation where banks are now having to purchase additional collateral to secure public deposits. The reduction in the collateral requirement was proposed to allow the deposits of the State and its political subdivisions to have a stimulative impact on the economy of the State.

Your Committee heard testimony from the director of the department of budget and finance in opposition to this bill on the grounds that it would expose that portion of public deposits that were not collateralized to risk of loss.

Your Committee has amended this bill by deleting paragraphs (9) and (10) of section 38-3, Hawaii Revised Statutes, and the provision allowing fifty per cent collateralization. A new paragraph has been added which would allow fifty per cent of the deposits held by a depository to be secured by assets of the depository which are eligible to secure advances from the Federal Reserve Banks under regulations of the Federal Reserve Board. Other technical, nonsubstantive amendments have been made.

Your Committee feels that this amendment will still provide much of the additional flexibility required by banks to comply with the deposit collateralization needs of governmental depositors while permitting banks to meet the credit needs of the community. Under this provision, banks will be able to take assets already on their books and put them to more productive use.

The financial marketplace is changing rapidly and new investment vehicles are constantly being created. By allowing for the pledging of types of collateral

which are acceptable for securing borrowings from the Federal Reserve Bank, it will not be necessary for the governor and the director to undertake lengthy investigations of each new financial instrument as it is created since the Federal Reserve Bank will have already made such an investigation. Furthermore, the acceptance of additional types of safe collateral not now specifically covered under the law such as Federal Home Loan Mortgage Corporation or Fannie Mae participation certificates and bankers acceptances, for example, will provide a degree of diversification in the mix of collateral which is used to secure public deposits.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2093-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2093-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 272-84 (Majority) Ways and Means on S.B. No. 1800-84

The purpose of this bill to authorize the department of budget and finance to issue special purpose revenue bonds in an amount not to exceed \$3,500,000 for Hawaiian Agronomics Process for the acquisition, renovation, or construction of an irradiation facility.

Presently, all uses of ethylene dibromide (EDB), except those for fruits, have been banned by the Environmental Protection Agency. The exception for fruits is due to expire in September, 1984. An extension of the September termination date appears unlikely due to concern over the carcinogenic properties of EDB. Since papayas for export are treated with EDB to kill fruit flies, alternatives must be found to assure the continuing viability of Hawaii's papaya export market.

Your Committee finds that irradiation is one alternative to the use of EDB. This bill would allow for the acquisition, renovation, or construction of an irradiation facility to assist processing enterprises. The use of irradiation would eliminate the dangers associated with the use of EDB and, therefore, this measure is in the interest of the public health, safety, and welfare.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1800-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 273-84 (Majority) Ways and Means on S.B. No. 1839-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$12 million for the purpose of assisting Kamakani Ikaika, Inc., a California corporation, or a partnership in which Kamakani Ikaika, Inc., is a general partner, in the generation of capital for the establishment of a 5 megawatt wind farm and related facilities on the island of Hawaii.

Your Committee finds that wind energy is a renewable, nonpolluting resource which can reduce the State's dependence on imported petroleum for its energy needs.

Your Committee further finds that the State must actively encourage the development of such alternative energy resources immediately and that financial assistance through the issuance of special purpose revenue bonds is an attractive means of assistance.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1839-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 274-84 Ways and Means on S.B. No. 1949-84

The purpose of this bill is to authorize the department of budget and finance

to issue special purpose revenue bonds that would be used to refund the special purpose revenue bonds that were authorized in Act 15, First Special Session Laws of Hawaii 1981 for the purpose of assisting utilities that serve the general public in providing electric energy or gas.

The refunding authorization will enable the department of budget and finance to sell refunding bonds at a lower interest rate than the bonds that were originally issued under Act 15, First Special Session Laws of Hawaii 1981. Savings accruing from these lower interest rates will be passed on to the utilities' ratepayers.

Your Committee recognizes that the issuance of these refunding special purpose revenue bonds will be subject to prior approval by the public utilities commission, the governor, and that the department of budget and finance must sell these bonds at a time that will not conflict with the issuance of its own bonds.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1949-84, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 275-84 (Majority) Ways and Means on S.B. No. 1950-84

The purpose of this bill is to extend the expiration date for issuance of special purpose revenue bonds that assist utilities serving the general public in providing electric energy or gas from June 30, 1984 to December 31, 1991.

Your Committee finds that this bill will permit the department of budget and finance to issue the remaining balance of bonds authorized for assisting Hawaiian Electric Co., Inc., in Act 15, First Special Session Laws of Hawaii 1981, beyond the original lapsing date of June 30, 1984. It will also permit the issuance of refunding special purpose revenue bonds by December 31, 1991.

Your Committee recognizes that the issuance of the remaining balance of special purpose revenue bonds and any refunding special purpose revenue bonds will be subject to prior approval by the public utilities commission, the governor, and the department of budget and finance.

Your Committee has amended the bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1950-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1950-84, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 276-84 (Majority) Ways and Means on S.B. No. 1948-84

The purpose of this bill is to extend the expiration date for the department of budget and finance's issuance of special purpose revenue bonds assisting utilities serving the general public from June 30, 1984 to December 31, 1991.

Act 15, First Special Session Laws of Hawaii 1981, authorized the department of budget and finance to issue special purpose revenue bonds not to exceed \$72,252,000 during the period from July 1, 1981 through June 30, 1984 for capital improvement programs of four major utilities. The Act further provided that none of the funds realized is to be used for fossil fuel or nuclear fuel generating units. The entire amount authorized has not been issued and will not be issued by June 30, 1984.

Your Committee finds that extending the time for the issuance of bonds under Act 15 is in the public interest in that it will enhance the ability of the utilities to develop projects utilizing Hawaii's renewable energy resources and thereby reduce the State's dependence upon imported petroleum.

Your Committee amended the bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose

of S.B. No. 1948-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1948-84, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 277-84 Ways and Means on S.B. No. 1925-84

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

Your Committee finds that tax increment financing is an innovative financing method of financing public improvements in redevelopment areas. This method relies on public improvements generating private development which results in substantially increasing the real property taxes generated from the district which then are used to repay the tax increment bonds issued to finance the public improvements as well as other project costs.

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. 1925-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1925-84, S.D. 1.

Signed by all members of the Committee.

SCRep. 278-84 Ways and Means on S.B. No. 1928-84

The purpose of this bill is to acquire the land and water rights at Kawainui Marsh, Oahu at the sum of \$5,730,000 or so much thereof as may be necessary.

Your Committee agrees with the findings of your Committee on Economic Development on this bill.

Your Committee has amended this bill by adding a new section 1 as a purpose section and renumbering the other sections accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1928-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1928-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 279-84 Ways and Means on S.B. No. 2181-84

The purpose of this bill is to complement proposed federal legislation providing for the establishment of enterprise zones by establishing a central agency to plan, develop, and administer projects designed to stimulate economic growth and employment opportunities in depressed areas of the State to be designated by the federal government as enterprise zones.

Enterprise zone legislation proposed by the federal government would designate a number of enterprise zones annually and would offer regulatory relief and substantial federal tax incentives to businesses operating within the zones, including tax credits for capital investment, income tax credits for employers and employees, elimination of the capital gains taxes, and a 15-year operating loss carry-over.

Your Committee finds that the federal tax and regulatory relief offered in enterprise zones will be an effective tool for economic development, when complemented by similar incentives at the state level. The incentives proposed for federal enterprise zones, however, are not intended to replace traditional capital subsidies or other direct business assistance incentives such as grants, loans, and loan guarantees.

In anticipation of federal enterprise zone legislation, at least 14 other states have passed enterprise-zone-related bills. Hawaii will need to compete with other states for the designation of one or more enterprise zones in the State. It is therefore essential that the State provide such legislation as a first step in competing for federal designation and the eventual establishment of enterprise zones in Hawaii.

Your Committee heard testimony from the Department of Planning and Economic Development and the Department of Taxation in support of the bill.

Your Committee has made technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2181-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2181-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 280-84 Ways and Means on S.B. No. 1935-84

The purpose of this bill is to extend the job sharing pilot project for librarians for an additional two years and to allow library assistants and technicians to participate in the project.

Your Committee notes that the Legislative Auditor in Report No. 84-15, February 1984 recommended that "job sharing be allowed on a permanent basis in the public library system and that the job sharing opportunities be extended beyond public librarians to library technicians, library assistants, and other library personnel."

Your Committee has amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1935-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1935-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 281-84 Ways and Means on S.B. No. 1937-84

The purpose of this bill is to allow instructional resource augmentation positions to be allotted to the secondary grades from the school priority fund.

Act 261, Session Laws of Hawaii 1982, established a school priority fund within the department of education. The fund serves to augment regular instruction and other educational services, at the discretion of individual schools. Individual schools may now to an extent plan, budget, and administer programs with greater authority and responsibility to satisfy their own unique needs.

Under Act 261 only elementary schools are entitled to instructional resource augmentation positions. This bill would allow up to ten per cent of the positions to be allotted to secondary schools.

Your Committee has amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1937-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1937-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 282-84 Ways and Means on S.B. No. 1551-84

The purpose of this bill is to amend twenty-six chapters of the Hawaii Revised Statutes pertaining to boards and commissions by separating application, examination, and license fees, where fees have not been separated; deleting from the statutes all wording specifying the amount of fees; and providing that all fees are to be established by rule by the Director of Commerce and Consumer Affairs. This bill further proposes to delete the requirements that optometry licensees be U.S. citizens and that the Board of Optometry submit an annual report to the Governor.

Your Committee finds that Act 92, Session Laws of Hawaii 1980, codified as section 26-9(j) and (k), Hawaii Revised Statutes, authorized the Director of Commerce and Consumer Affairs to increase or decrease the board and

commission fees to maintain a reasonable relation between the revenues derived from fees and the cost or fair value of services rendered and to establish separate application, examination, and license fees.

This bill proposes to fulfill the statutory requirement. Rules on fee changes were adopted on September 1, 1983 which are intended to establish a reasonable relation between revenues and expenditures. This bill amends the various sections of the board and commission statutes affected to conform to the action taken by the department on fees.

Your Committee amended the bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1551-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1551-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 283-84 Ways and Means on S.B. No. 2209-84

The purpose of this bill is to improve and clarify the provisions of chapter 42, Hawaii Revised Statutes (HRS).

Article VII, section 4, of the Constitution of the State of Hawaii prohibits the grant of public money or property except pursuant to standards provided by law. Chapter 42, Hawaii Revised Statutes, establishes the required standards for review of grants, subsidies, and purchases of service.

Implementation of the law in the early years was not without problems, as annual evaluations of the legislative auditor attested. During the past year, however, significant improvement in implementation by state agencies was noted. But, not all problems have been solved, and the solutions require legislative amendment of the law.

This bill, among other provisions, clarifies the definitions of "grant", "subsidy", and "purchase of service", the process for solicitation and review of requests and proposals for grants, subsidies, and purchases of service by line agencies and the chief executives, and the methods of funding by the legislature. State agencies and private organizations support the general intent of the bill, but have concerns over specific provisions.

Your Committee has made the following major amendments to the bill.

(1) The definitions of "provider" and "recipient" have been amended by replacing in each the term "organization" for "person, association, or corporation". The definition of "purchase of service" also has been amended to exempt from the definition professional services of private individuals and services subject to competitive bidding requirements. These amendments clarify the confusion over the applicability of chapter 42, HRS, to individuals. Individuals are not to be recipients or providers under chapter 42, HRS, but may receive public contracts as independent contractors.

(2) Language has been added to allow the appropriation of funds in the budget or supplemental budget for grants, subsidies, and purchases of service which the legislature decides to fund, but which were not recommended by the chief executives.

(3) Funds for purchases of service in the budget of the chief executives are required to be appropriated to specific providers.

(4) Contract forms are to be determined by the agency in consultation with the attorney general or administrative director of the courts, as the case may be. Under current law, the director of finance or administrative director of the courts determines the contract forms.

(5) The proviso has been deleted which requires approval by the director of the expending agency of salary increases for employees of the recipient or provider and the reduction of the grant or purchase of service if salary increases are awarded without approval. A new proviso has been included which allows the director of the expending agency to increase salary or benefits of

employees of the recipient or provider so long as the increases are not in excess of the increases granted under collective bargaining agreements for comparable positions in public employment. Your Committee emphasizes that this provision gives the director of the expending agency unilateral power to make salary increases for private employees.

(6) The director of budget and finance is allowed, instead of required, to adopt rules for the modification or reduction of allotments for grants and subsidies in anticipation of revenue shortfalls. Furthermore, the provision on fair and uniform allotments has been deleted.

In addition, your Committee has made nonsubstantive amendments, which include the reordering of the definitions under section 42-1, HRS, to accommodate the new definition of "proposal" and the combination of the amendments proposed to section 42-6, HRS, under one section in the bill, as received.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2209-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2209-84, S.D. 2.

Signed by all members of the Committee except Senator Holt.

SCRep. 284-84 Ways and Means on S.B. No. 1514-84

The purpose of this bill is to allow collection agencies under contract with the department of health to collect moneys owed for services rendered under the state comprehensive emergency medical services system to retain a percentage of the money that they collect as their fee for services.

Presently, collection agencies which collect moneys for accounts written off as bad debts, are paid by the department only after the total sum collected is deposited into the state general fund. This bill eliminates needless administrative costs and allows more efficient administration of the collection of emergency ambulance services accounts receivables.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1514-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 285-84 Ways and Means on S.B. No. 1759-84

The purposes of this bill are to establish a full-time position of mental health supervisor III for the leeward Oahu mental health clinic of the department of health, reallocate general funds for an existing public health administrative officer IV position to the mental health supervisor III position, and convert the public health administrative officer IV position to temporary federally funded status.

Your Committee has removed in total the provisions of this bill, as received. The provisions will be included in the supplemental appropriations bill, making unnecessary separate passage of the authorization, funding, and conversion of the positions.

Instead, your Committee has inserted new provisions requiring the establishment by the department of health of a comprehensive, coordinated program for the prevention of the development of mental disorders and psychosocial and family problems. A purpose section has been included, and your Committee concurs with the statements in that section.

Certain provisions of the bill, as amended, however, are reiterated for emphasis:

(1) The department of health is to provide services under the program through its existing statutory authority. The statutory authority is to be construed broadly. The new language intentionally gives the department of health much discretion, and your Committee hopes that the department will use creativity in a rational manner in the establishment of the program.

(2) Coordination with the department of social services and housing and department of education is required. Your Committee recognizes that the

distinction between prevention services and treatment is blurred, and duplication and jurisdictional conflicts may occur. Coordination is mandated to minimize the problems and promote efficiency and effectiveness of all services, prevention and treatment. Your Committee, however, restates its intention that the department of health is to be the primary agency in prevention services.

(3) The department of health is required to make grants and enter into purchases of service agreements, as well as provide the services through its own line agencies and other governmental agencies. Your Committee intends to give favorable consideration to requests for funding of grants and purchases of service agreements under the program.

Senate Bill No. 2244-84, which has passed Second Reading and been referred to your Committee, proposed establishing the department of health as the lead agency in the coordination of prevention programs for child abuse and neglect. Your Committee gave in-depth consideration to that bill and has determined that the limitation to child abuse and neglect is not sufficient to meet true public needs. Thus, your Committee has used this bill to expand on the concept proposed by Senate Bill No. 2244-84.

Your Committee also has inserted an appropriation of \$20,000 for the establishment of the comprehensive program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1759-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1759-84, S.D. 1.

Signed by all members of the Committee except Senator Holt.

SCRep. 286-84 Ways and Means on S.B. No. 1843-84

The purpose of this bill is to make an appropriation of \$2,742,413 to purchase equipment for the new Hilo Hospital acute care facility.

The new acute facility at Hilo Hospital was originally planned for completion in December, 1984. Accordingly, a request for \$2,742,413 was included in the administration's 1985 supplemental budget submission. However, the completion date is now six months ahead of schedule, and based on the supplemental request, there will be a delay in purchasing the equipment. This will mean that the new hospital will stand vacant while the equipment is put to bid, purchased, delivered, and installed in fiscal year 1985. Not only will this mean that a facility will not be used, the warranty on the facility and built-in fixtures may be affected.

This bill would allow for the commencement of the bidding, purchasing, delivery and installation of the equipment needed for this facility in fiscal year 1984.

Your Committee 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. 1843-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1843-84, S.D. 1.

Signed by all members of the Committee.

SCRep. 287-84 Ways and Means on S.B. No. 1847-84

The purpose of this bill is to provide funds to the Hansen's disease program for the maintenance of current patient hours in the patient employment program to allow the patient employment program to continue its operations for fiscal year 1983-1984.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1847-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 288-84 (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 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.

St. Francis Hospital had a certificate of need application approved by the State Health Planning and Development Agency (SHPDA) on July 11, 1983. Upon the issuance of the bonds, considerable savings will inure to St. Francis Hospital, resulting in lower health care costs to the consumer.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1297, H.D. 2 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 289-84 (Majority) Ways and Means on S.B. No. 2032-84

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds in the sum of \$3,000,000 to finance improvements and secure refinancing for the Pohai Nani Good Samaritan Kauhale health care facility.

Your Committee finds that in 1981 a similar bond issue financially assisted the operation of Pohai Nani and the savings obtained helped keep the expected annual rate increases down for the residents. The proposed bond issue would have a similar cost savings effect and this savings would be passed directly to the facility's residents.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2032-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 290-84 (Majority) Ways and Means on S.B. No. 2229-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for financing and refinancing equipment at Queen's Medical Center, Wahiawa General Hospital and G.N. Wilcox Memorial Hospital.

Your Committee finds that the issuance of bonds under this Act is in public interest and for the public health, safety, and welfare, and recommends its approval.

Your Committee amends the bill by deleting the authorization of \$3,000,000 for Wahiawa General Hospital.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2229-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2229-84, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 291-84 (Majority) Ways and Means on S.B. No. 2230-84

The purpose of this bill is to extend the sunset provision of section 39A-52, Hawaii Revised Statutes, from June 30, 1986 to June 30, 1999.

The issuance of special purpose revenue bonds has been of substantial benefit to Hawaii's residents and not-for-profit health care institutions by providing significant cost savings. Interest paid toward financing necessary to provide health care facilities continues to be a major factor in the cost of providing health care to the general public. The cost of such interest is far less when tax exempt bonds are issued.

Recently, bonds have frequently been issued with floating interest rates to

take advantage of current low rates with an option to convert to a fixed rate. In the event the sunset provision is not extended, it would not be possible to convert a floating rate bond to a fixed rate and the issue would be subject to the prevailing rate.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2230-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 292-84 Ways and Means on S.B. No. 2241-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$5,000,000 and refunding bonds as appropriate to assist Kuakini Medical Center.

Your Committee finds that Kuakini Medical Center is a vital contributor to health and medical education in Hawaii as well as a leader in serving the health care needs of Hawaii's population. Your Committee believes that this bill will result in considerable cost savings to both government and private consumers and therefore recommends its passage.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2241-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 293-84 (Majority) Ways and Means on S.B. No. 1918-84

The purpose of this bill is to provide for a statutory ceiling on the salary of the president of the University of Hawaii and to authorize the board of regents to set the salary within the specified ceiling.

Currently the salary of the president is set by law. According to the most recent data compiled by the College and University Personnel Association for 1982-83, the salary of the president of the University of Hawaii is the lowest in the nation among comparable institutions. Your Committee finds that while the presidency of the University of Hawaii might be an attractive opportunity for academic career fulfillment, removing the existing statutory limitation on the president's salary is necessary to allow the university system to recruit and secure a qualified president.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1918-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senators Kawasaki, Solomon and Uwayne did not concur.

SCRep. 294-84 Ways and Means on S.B. No. 1932-84

The purpose of this bill is to establish a secondary student loan market for Hawaii.

Currently there exists a need to provide liquidity for lending institutions making student loans in Hawaii. Due to the unique nature of student loans many lending institutions find illiquidity a problem. This bill would alleviate the problem by allowing a nonprofit corporation to purchase student loan contracts from lending institutions, thus releasing more money for student loans.

In order to create a secondary market for student loans, the bill grants the governor authority to request the organization of a private nonprofit corporation which meets the following requirements of section 103(e) of the Internal Revenue Code of 1954, as amended:

1. The corporation must be not for profit.
2. The corporation must be established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965.

3. The corporation must be organized at the request of the State or one or more political subdivisions thereof or the corporation must be requested to exercise such power by one or more political subdivisions.

4. The corporation must be required by its corporate charter and bylaws or by state law to devote any income (except payment for expenses, debt service, and the creation of reserves for same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof.

Additionally, the bill ensures that the dissolution of any corporation organized under chapter 309, Hawaii Revised Statutes, will not result in the loss of assets acquired for the purpose of purchasing student loan notes.

Your Committee received testimony that the United Student Aid Funds has been serving as guarantor and administrator of the guaranteed student loan program in Hawaii since 1979. Your Committee was informed that a local nonprofit corporation affiliated with United Student Aid Funds would be more responsive to local needs than the existing national secondary market corporation.

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. 1932-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1932-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 295-84 Ways and Means on S.B. No. 1533-84

The purpose of this bill is to authorize the Hawaii Community Development Authority to issue \$30,000,000 of assessment area bonds for district-wide infrastructure improvement projects in the Kaka'ako redevelopment district.

Section 206E-6, Hawaii Revised Statutes, requires the Authority to undertake district-wide public facility improvements to be financed by bonds issued by the Authority and to assess a part of the cost of the improvements against real property specially benefited from the improvements. This bill provides a bond authorization amount pursuant to this existing law.

Your Committee finds that the Authority will require bonds to finance an estimated \$25,000,000 to \$29,000,000 of the infrastructure costs and therefore recommends passage of this measure.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1533-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 296-84 Ways and Means on S.B. No. 1809-84

The purpose of this bill is to provide the Hawaii Community Development Authority (HCDA) with more flexibility in administering a bond program to finance public improvements within a redevelopment district.

Your Committee finds that section 206E-6(c), Hawaii Revised Statutes, currently limits the security for improvement district bonds solely to the real property benefitted or improved and the assessments thereon. This bill would allow the bonds additionally to be secured by reserve funds, bond insurance, and other assets deemed necessary to effectuate a favorable bond program.

Your Committee further finds that section 206E-6(e), Hawaii Revised Statutes, currently requires that all moneys relating to the bonds be used solely for the principal and interest payments due on the bonds and that premiums received on the bond sale be deposited into the HCDA's revolving fund. This bill would allow bond moneys to be used in establishing a reserve fund and for other expenses incurred in the administration and maintenance of the bond program. This bill would provide further flexibility in structuring bond issues by deleting the requirement for depositing premiums received on the bond sale into the revolving fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1809-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 297-84 Ways and Means on S.B. No. 1573-84

The purpose of this bill is to increase the maximum principal amount of revenue bonds which may be issued by the Hawaii housing authority for the housing loan and mortgage program from \$475 million to \$875 million.

The State's housing loan and mortgage program, known as Hula Mae, provides financing assistance to purchasers of homes through the use of proceeds of revenue bonds exempt from federal taxation. The program achieved its objective, and its success was attributable to the tax-exempt status of the bonds. Although the tax exemption has expired under federal law, the chances of reenactment of the exemption by Congress are excellent.

Your Committee is confident that Congress will reenact the exemption. The specific dollar amount has been established with the intention of providing sufficient authorization for issuance of the maximum amount of bonds for two and one-half years, under assumption that the reenacted exemption will be similar to that which expired.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1573-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 298-84 Ways and Means on S.B. No. 1718-84

The purpose of this bill is to establish a new housing finance revolving fund to be administered by the Hawaii housing authority.

Your Committee finds that the new housing finance revolving fund would be used principally to fund the operation of the authority's various housing finance programs and to provide long-term and special financing of projects. The establishment of the new fund would relieve the dwelling unit revolving fund (DURF) of long-term commitments and thus make more money available from DURF for short-term loans.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1718-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 299-84 Ways and Means on S.B. No. 2249-84

The purpose of this bill is to authorize the Hawaii housing authority (HHA) to allocate to one or more issuers a bond allocation received under the federal Mortgage Subsidy Bond Tax Act of 1980, or as it may be amended by the U.S. Congress.

Your Committee finds that although federal law has halted the issuance of mortgage subsidy bonds as of December 31, 1983, the Congress will probably extend the Mortgage Subsidy Bond Tax Act of 1980 or enact similar legislation in 1984. It would be advantageous for Hawaii to have legislation in place which would allow the HHA and the counties to proceed immediately with mortgage bond programs that would assist Hawaii's homebuyers.

Your Committee has amended the bill by placing the allocation provisions within the Hawaii Revised Statutes rather than the Session Laws and by specifying that the allocation will apply under any act with similar purpose enacted by the Congress.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2249-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2249-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 300-84 Ways and Means on S.B. No. 1570-84

The purpose of this bill is to allow the Hawaii Housing Authority to use the Fee Simple Residential Revolving Fund for lease rent renegotiation activities under chapter 519, Hawaii Revised Statutes.

Your Committee has amended the bill by correcting a typographical error.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1570-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1570-84, S.D. 1.

Signed by all members of the Committee.

SCRep. 301-84 (Majority) Ways and Means on S.B. No. 1890-84

The purpose of this bill is to extend the expiration date of the authorization of the department of land and natural resources to negotiate and enter into lease agreements with certain South Kona residents and to correct a drafting error in the law.

Act 62, Session Laws of Hawaii 1982, allows the department of land and natural resources and eligible residents of the Milolii-Hoopuloa community to negotiate long-term leases for parcels upon which the residents' homes are located. This bill extends the expiration date for negotiations to January 1, 1987 to allow completion of negotiations currently in progress.

Your Committee has amended the bill by adding a new section 5 to Act 62. The addition allows the department of land and natural resources to develop or assist in the development of a residential subdivision for persons with long-term leases under the Act. The subdivision, if developed, is to be exempt from zoning, construction, subdivision, and development standards of all statutes, ordinances, charter provisions, and rules of any governmental agency, but is to meet minimum requirements of health and safety. Your Committee finds that this provision is in the public interest of the residents.

Your Committee also has amended the bill to renumber the current sections 5 and 6 of Act 62 and to delete the unnecessary word "are" on page 1, line 10, of the bill, as received.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1890-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1890-84, S.D. 1.

Signed by all members of the Committee except Senator Young.
Senators B. Kobayashi and Kawasaki did not concur.

SCRep. 302-84 Ways and Means on S.B. No. 878

The purpose of this bill is to amend chapter 89, Hawaii Revised Statutes, relating to Collective Bargaining, by including contributions to the Hawaii public employees health fund as negotiable items.

Your Committee finds that while there is support for the negotiability of the contributions, there is considerable opposition to the concept of negotiability for benefits of the Health Fund. Further, there has been a strong recommendation that negotiations on the contributions be made jointly by all bargaining units.

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. 878, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 878, S.D. 2.

Signed by all members of the Committee.

SCRep. 303-84 Ways and Means on S.B. No. 1115

The purpose of this bill is to establish a compulsory arbitration procedure for the resolution of disputes over the terms of an initial or renewed agreement involving the exclusive representative of bargaining unit (12), police officers.

Presently, firefighters are subject to a final offer whole package arbitration procedure while police officers have the right to strike. However, most police officers because of the nature of their work, would almost certainly be designated as "essential employees" and forbidden to participate in a strike. Consequently, police officers do not have sufficient leverage in negotiations. This bill would provide an effective alternative to settle disputes and is in the interest of continued public health and safety.

The State of Hawaii Organization of Police Officers submitted testimony in favor of extending compulsory arbitration to police officers to effectively strengthen their collective bargaining power. Your Committee agrees that the compulsory arbitration process which covers firefighters should be extended to police officers as a viable alternative to strike action; provided that the selection of the third arbitrator in disputes involving police officers be limited to a list of arbitrators who are Hawaii residents.

Your Committee is concerned that the present law requiring the arbitration panel to select one or the other final offer is too limited and believes that more equitable settlements could be reached if the arbitration panel is allowed greater latitude in fashioning a final and binding decision. Accordingly, your Committee has amended the bill by deleting the requirement that the arbitration panel must select the most reasonable of the complete final offers submitted by the parties and requiring instead that the arbitration panel issue a final and binding decision. Minor, technical 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. 1115, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1115, S.D. 2.

Signed by all members of the Committee except Senator Holt.

SCRep. 304-84 (Majority) Ways and Means on S.B. No. 1493-84

The purpose of this bill is to allow the parties in the public sector collective bargaining process to extend the impasse resolution time period by mutual agreement, with the concurrence of the Hawaii Public Employment Relations Board.

Currently the basic time frame is set by law. This bill allows flexibility in instances where additional time could prove beneficial in resolving major issues, possibly leading to a settlement.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1493-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 305-84 Ways and Means on S.B. No. 1520-84

The purpose of this bill is to incorporate the quick kokua program and career resource centers into a comprehensive and unified transition center system for delivery of career, employment, social, and health counseling to the youth of Hawaii.

Many traditional jobs have become obsolete and new industries in oceanography, communication, and hi tech make high school and post-high school career decision-making ever more complex and the need for transition services all the more crucial. This bill will promote coordination between individual career resource centers in the utilization of resources, facilitate long-range planning to meet the career service requirements of Hawaii's students, provide a mechanism for inter-agency collaboration in delivering career services, and provide for the development of goals, objectives, and measures of effectiveness to guide the activities of school-to-work transition centers in Hawaii.

Your Committee has amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1520-84, S.D.1, as amended herein, and recommends that it pass

Third Reading in the form attached hereto as S.B. No. 1520-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 306-84 Ways and Means on S.B. No. 1522-84

The purposes of this bill are to: (1) deny unemployment compensation benefits to a nonprofessional employee of an educational institution during periods between successive academic years or terms if the employee performed service in the first year or term and is reasonably assured of employment in the second year or term; (2) allow a nonprofessional employee to collect retroactive benefits for periods between academic years or terms if not provided opportunity for employment in the second year or term; (3) deny benefits to a professional or nonprofessional employee of an educational institution during periods of customary vacation or holiday recess if the employee performed service immediately prior to the vacation or recess and is reasonably assured of employment after the vacation or recess; and (4) state that the provisions concerning denial of benefits of an employee of an educational institution also apply to an employee employed by a governmental agency established and operated exclusively for providing services to an educational institution.

Present law denies unemployment compensation benefits to a professional employee of an educational institution performing service in an instructional, research, or principal administrative capacity during periods between successive academic years or terms. The department of labor and industrial relations has stated that the provisions added by this bill are necessary to comply with federal law. The term "nonprofessional employee of an educational institution" is not used in the bill, but the language in the new paragraphs (2) and (3) added to section 383-29, Hawaii Revised Statutes, specifying service other than instructional, research, or professional administrative service in an educational institution is intended to mean nonprofessional service.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1522-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 307-84 Ways and Means on S.B. No. 1524-84

The purpose of this bill is to eliminate mandatory retirement ages from employment in the public and private sectors.

Your Committee finds that current law imposes a mandatory retirement age of seventy years for public employees and allows private employers to establish a mandatory retirement age. This bill would eliminate such mandatory retirement ages in recognition of the fact that chronological age by itself is not a reliable indicator of an individual's ability to continue working.

Your Committee has amended this bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1524-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1524-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 308-84 Ways and Means on S.B. No. 1525-84

The purpose of this bill is to extend authorization of the use of federal Reed Act credits from twenty-five to thirty-five years from the date the funds were first credited to the State.

Your Committee finds that extending the time limit for using the funds will allow the State to take advantage of the law to restore funds for future use.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1525-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 309-84 Ways and Means on S.B. No. 1526-84

The purpose of this bill is to authorize the Hawaii Career Information Delivery System, better known as Career Kokua, to share occupational and career information pertaining to Hawaii with other information systems, states, counties, territories, and private entities on a cost reimbursement basis.

Currently, approximately \$48,000 is payable to the program from the Pacific Occupational Information project, other counties, and private agencies; however, the program lacks the statutory authority to receive and expend such funds. Your Committee finds that this bill will enhance Hawaii's leadership role in the Pacific and elsewhere and will enable Career Kokua to enjoy a greater benefit from its activities.

Your Committee has amended this bill by providing that the temporary special fund created by this bill will operate for one year rather than three years. Your Committee 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. 1526-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1526-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 310-84 Ways and Means on S.B. No. 1677-84

The purpose of this bill is to include in the determination of an elected official or judge's average final compensation, any compensation received after the employee retired from the state retirement system but was in active service; provided that such service commenced within three years following the date of retirement.

Individuals who retire under section 88-73, Hawaii Revised Statutes, will now want to take advantage of the higher compensation earned after the employee filed for retirement. Section 88-73, Hawaii Revised Statutes, allows elected officials or judges the opportunity of retiring after attaining an allowance of 75% of their average final compensation, provided that they may continue in active service but shall not receive a retirement allowance until they leave active service. Contributions to the retirement system cease at the time of the election. Upon leaving active service, the elected official or judge will receive the retirement allowance provided for in section 88-74, Hawaii Revised Statutes, together with the post-retirement allowance provided for in section 88-90, Hawaii Revised Statutes, which shall be computed from the date of election as though the person had left active service on that day.

Under present law, in lieu of a right to recover the maximum retirement allowance, individuals may elect to receive a retirement allowance under a number of optional plans. This bill would also allow individuals who retired under section 88-83, Hawaii Revised Statutes, to amend any election of a mode of retirement allowance prior to leaving active service at which time the election shall be irrevocable.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1677-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 311-84 Ways and Means on S.B. No. 1841-84

The purpose of this bill is to create a non-contributing benefit plan for certain members of the Employees' Retirement System (ERS).

Currently, public employees contribute six per cent plus one and eight-tenths per cent of their gross salaries as a post-retirement contribution, to the Employees' Retirement System, and most contribute an additional six and seven-tenths per cent to the Social Security System. In practical terms, this contribution results in retirement benefits which generally exceeds final take-home pay while employed and is costly to both employers and employees alike. These costs are expected to increase in the future, and viewed together with the low take-home pay ratio already experienced by most public workers, indicate that the system is inefficient and needs to be substantially changed.

The noncontributory benefit plan proposed in this bill will address the problems inherent in the system by doing the following (1) increasing employees' take-home pay; (2) providing a typical career public employee with combined system and Social Security benefits substantially equivalent to the employee's pre-retirement income; (3) giving present members of the system a choice of benefit plans; (4) making the system more tax efficient; (5) enhancing the opportunities for more individualized retirement planning; and (6) ultimately simplifying the administration of the system.

Your Committee has amended the bill by making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1841-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1841-84, S.D. 2.

Signed by all members of the Committee except Senator Holt.

SCRep. 312-84 Ways and Means on S.B. No. 2125-84

The purpose of this bill is to provide financial relief to state and county retirees in order to counter the erosion of the purchasing power of their pensions due to inflation and the inadequacy of the present post-retirement and cost-of-living bonus provisions in the law.

Post-retirement was initiated in 1961 and increased in 1970, and the cost-of-living bonus was established effective January 1, 1966 and increased several times thereafter. The process of legislating these retirement increases, however, is costly and time-consuming, and your Committee finds that comprehensive changes are needed to expedite this process.

This bill provides a bonus of \$1.50 a month for each year of credited service for persons retired after June 30, 1970 and before July 1, 1975. It also provides a bonus of \$1.00 a month for persons who retired after June 30, 1975 and before July 1, 1979. In addition, the bill provides that whenever employees in active service receive a pay increase, retirees will automatically be granted a percentage of the average dollar increase approved for the employees.

Your Committee has amended the bill by substituting an \$8.75 a month increase for all pensioners for the period of January 1, 1985, to June 30, 1985 in place of the automatic percentage increase each time persons on active service receive an increase.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2125-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2125-84, S.D. 2.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 313-84 Ways and Means on S.B. No. 2126-84

The purpose of this bill is to allow the use of a portion of the employees' retirement system investment earnings to cover its administrative expenses.

Under existing law, the State's general fund appropriations to the employees' retirement system includes funding for the system's administrative expenses. The bill would eliminate the need to include the system's administration cost in the general fund. However, any amount paid into the expense account from the investment earnings of the system would be subject to approval by the governor and the legislature.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2126-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 314-84. Ways and Means on S.B. No. 2182-84

The purpose of this bill is to amend section 88-107, Hawaii Revised Statutes, to clarify the allocation of earnings of the Employees' Retirement System.

Existing law provides that the Employees' Retirement System can only retain 7 per cent of its investment earnings. Any earnings in excess of 7 per cent are credited to the employer's contribution to the retirement system. The bill specifies how the income retained by the system would be credited. At the same time, the amount of interest credited to the post retirement fund but not paid to members would increase from 4-1/2 per cent to 7 per cent and reduce the unfunded liability in the post retirement fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2182-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 315-84 Ways and Means on S.B. No. 2183-84

The purpose of this bill is to prevent members of the Employees' Retirement System from terminating employment for the sole purpose of withdrawing their contributions.

In the opinion of the Attorney General, the present law does not prevent such abuse of the system. A member loses credited service, but if the member returns to service and continues employment for at least five years, the member at the point of retirement, may purchase the service in a lump sum and select an option that would require the system to refund a portion or all of the member's contributions. This measure will correct this situation and protect the State from the higher costs engendered by this kind of abuse.

Your Committee has amended the bill by making a nonsubstantive amendment.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2183-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2183-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 316-84 (Majority) Ways and Means on S.B. No. 2199-84

The purpose of this bill is to increase the fixed dollar amount of public employer's monthly dental plan insurance contributions to the childrens dental plan from \$5.28 to \$5.72 per eligible child under age 19.

On January 12, 1984, the board of trustees awarded a one-year contract extension to Hawaii Dental Service, the present insurance carrier. Hawaii Dental Service agreed to continue the existing childrens dental plan at the same level of benefits from July 1, 1984, to June 30, 1985 for a monthly rate of \$5.72. Over the years, the Health Fund Law has been periodically amended to increase public employer's dental plan contributions to keep pace with inflation. No state or county funds will be required to implement the increase in the dental plan rate contained in this bill.

Your Committee has amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2199-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2199-84, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 317-84 Ways and Means on S.B. No. 2213-84

The purpose of this bill is to increase the fixed dollar amounts of the public employers' monthly medical plan insurance contributions under the public employees health fund law.

Over the years, the health fund law has been periodically amended to increase the public employers' medical plan contributions to keep pace with inflation.

Your Committee heard testimony in support of the bill from the Department of

Budget and Finance, Hawaii Government Employees Association, and Hawaii State Teacher's Association.

The dollar amounts for monthly medical contributions and total appropriation have been left blank pending the ratification of the union contracts.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No 2213-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 318-84 Ways and Means on S.B. No. 1509-84

The purpose of this bill is to appropriate \$384,850.86 to compensate certain persons under the criminal injuries compensation Act.

Your Committee has amended the bill to enumerate the specific cases and amounts of awards that are to be included in the sum appropriated by this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1509-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1509-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 319-84 Ways and Means on S.B. No. 1709-84

The purpose of this bill is to make an appropriation out of the general revenues of the State for the purpose of satisfying claims for legislative relief for overpayment of taxes, judgments against the State and settlement of claims, and other miscellaneous claims.

Your Committee has amended this bill by adding eight additional judgments against the State and settlement claims and three additional miscellaneous claims. This bill, as amended, makes a total appropriation of \$7,643,430.88 for the payment of twenty-two claims.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1709-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1709-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 320-84 Ways and Means on S.B. No. 2137-84

The purpose of this bill is to allow any party who prevails in a civil action against the State to recover reasonable attorney's fees if the court determines that the agency acted without a reasonable basis in fact or law; it also authorizes the court to withhold such attorney's fees if the court finds the agency's action was substantially justified or other special circumstances exist that would make the award unjust. Attorney's fees awarded under the provisions of the bill are limited to \$25,000, and payable upon a budget request by the agency to the legislature.

Your Committee finds that this bill, initiated by the Hawaii Small Business Advisory Committee, would alleviate some of the burden on private parties who, because of financial constraints, may now be reluctant to sue an agency on a legitimate claim against an invalid administrative rule, declaratory ruling, or final order. The State's substantial legal and financial resources restrain persons with legitimate claims against the State from bringing suit. This bill recognizes the disparity of resources between the State and individuals and through monetary incentives, encourages private parties to take legal action based on meritorious claims against the State.

Your Committee has amended the bill to meet concerns raised by the Attorney General's office. These amendments are as follows:

(1) Clarifying the point at which attorney's fees are collectible: after it is ultimately determined that an agency acted without reasonable basis in fact or

in law.

This amendment precludes payments of interim awards, if any, for attorney's fees. Your Committee does not intend, however, to preclude payments after a stay is granted where that stay acts in effect as an ultimate finding or determination.

(2) Excluding family court proceedings and civil proceedings begun in family court from the bill.

(3) Prohibiting the collection of attorney's fees awarded under the bill where a money judgment awarded to a petitioner, attorney's fees and costs included, is equal to or less than any monetary settlement offer, not conditioned on action by the petitioner other than dismissal of the petitioner's suit, to the petitioner by the State prior to the judgment.

Your Committee has further amended the bill by providing that it ceases effect on midnight of June 30, 1987, with the understanding and intent that the legislature will assess whether attorney's fees should continue to be allowed against state agencies.

Your Committee 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. 2137-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2137-84, S.D. 2.

Signed by all members of the Committee except Senator Holt.

SCRep. 321-84 (Majority) Ways and Means on S.B. No. 2141-84

The purpose of this bill is to amend chapter 843, Hawaii Revised Statutes relating to the Hawaii Crime Commission and to allocate \$302,000 for the fiscal year 1984-85 to operate the Commission. These funds will be expended through the office of the lieutenant governor.

Among the major changes this bill makes to chapter 843, Hawaii Revised Statutes are: (1) changing of the name of the Commission from the Hawaii Crime Commission to the Hawaii Criminal Justice Commission; (2) establishing the new Commission from July 1, 1985 to June 30, 1988 and providing for the continuance of the present commission during the interim period; and (3) restating the functions of the Commission by consolidating the present varied functions and focusing on two specific yet flexible functions.

There is much concern and misconception about the operation of the criminal justice system. The proposed changes would allow the Commission to focus on these concerns and misconceptions and contribute to the improvement and understanding of our system of justice.

The bill retains the provisions dealing with the unauthorized disclosure of confidential information or matter acquired by the Commission. Although the present staff does not intend to gather criminal intelligence information, there is still confidential information gathered during the course of a study. Thus the present statute is necessary to protect against the unauthorized disclosure of that information and the information and matters that have been previously gathered by the Commission staff.

Your Committee agrees with the Committee on Judiciary that there is a need for a Commission which studies problem areas within, and develops public education programs relating to, the criminal justice system. The Commission's independent status and citizen commissioners will allow it to address areas of concern to our community and to provide objective input for the benefit of the citizenry.

Your Committee has reduced the appropriation to \$250,000 and made technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2141-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2141-84, S.D. 1.

Signed by all members of the Committee except Senators Holt and Mizuguchi.

Senators Henderson and Soares did not concur.

SCRep. 322-84 (Majority) Ways and Means on S.B. No. 1760-84

The purpose of this bill is to allow nonprofit organizations to operate bingo games for the purpose of raising funds for the conduct of their activities.

Under this bill, as received, nonprofit organizations may operate bingo games if they are organized and operated within this State exclusively for charitable, religious, educational, or scientific purposes, for the benefit of the community, or for the promotion of social welfare, are exempt from income taxation, and have been in existence for not less than five years immediately preceding the date of application for a license to conduct bingo. Licenses are to be issued by the department of commerce and consumer affairs. Bingo games are to be played under defined conditions intended to neutralize malicious influences. Proceeds received from bingo games are to be exempt from income and general excise taxation unless taxation is triggered. Taxation is triggered when the nonprofit organizations have a specified amount of assets and continue to derive proceeds from bingo games.

The impetus for this bill is the reduction in funding for nonprofit organizations engaged in public welfare, charitable, or socially desirable activities. Government grants to these organizations have been cut back because of lack of revenues. Charitable donations from private sources also have not been of the magnitude required because of the less than robust economy. This bill affords nonprofit organizations, at their discretion, the opportunity to raise funds through an activity in which the general public appears willing to participate. It is intended to lessen the dependence of nonprofit organizations on government funds and direct charitable solicitations. Other states and Indian reservations allow the conduct of bingo games, and their experiences indicate that significant funds may be raised.

Much concern has been expressed over the inadvisability and irresponsibility of promoting gambling as a public policy and the potential for criminal influence in or control of bingo games. Your Committee, however, does not intend favorable action on this bill to be construed as an overt or covert policy to promote any activity other than bingo games by nonprofit organizations. This bill merely is a means to allow nonprofit organizations to raise funds. Furthermore, your Committee finds that the safeguards in this bill are adequate to prevent criminal influences from infiltrating bingo games. Bingo games must be operated under strictly defined conditions and limitations. Law enforcement officers are empowered to conduct investigations and prosecute illegal activities. The combination of these features and amendments made by your Committee should make bingo games a small-time concern and not worth the efforts or bother of persons with criminal intent.

Your Committee finds that the new concept proposed by this bill should be limited for at least some years. Consequently, your Committee has amended the bill to allow a licensed nonprofit organization to conduct bingo games only during one day of a calendar year. Income derived from bingo games is made subject to income and general excise taxation. This provision should inhibit the conduct of bingo games at a scale too large for adequate monitoring.

Your Committee also has amended one ground for the revocation or refusal to renew a license. Under section -6(6) in the bill, as received, a license may be revoked or refused renewal if the nonprofit organization uses equipment not owned by the organization and conducts bingo games on premises under oral agreement with the owner or an agreement under which rent is dependent on receipts. Your Committee has separated the ground. In the bill, as reported, a license may be revoked or refused renewal if the nonprofit organization uses equipment not owned by the organization or conducts bingo games on premises leased under oral agreement or in return for rent dependent on receipts. This amendment conforms to the original intent of the bill.

Dollar amounts in the bill have been left blank. Your Committee intends to insert the amounts later after further consideration.

Your Committee intends to monitor closely the implementation of this bill, operation of bingo games, impact of bingo games on the fund raising of

nonprofit organizations, and, in particular, any criminal involvement. Your Committee declares its readiness to take drastic action, including repeal of the proposed law, if implementation does not work as expected, or to amend the proposed law to promote the participation of nonprofit organizations, if the proposed law works well.

In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1760-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1760-84, S.D. 1.

Signed by all members of the Committee except Senator Holt.
Senator Henderson did not concur.

SCRep. 323-84 Ways and Means on S.B. No. 535

The purpose of this bill is to provide state weight tax and registration fee exemptions for certain motor vehicles which have been constructed or modified to enable a handicapped person to operate or use the vehicle.

Your Committee finds that chapter 249, Hawaii Revised Statutes, currently limits exemptions from the state motor vehicle weight tax and registration fee to disabled veterans. Your Committee believes that extension of the exemption to certain vehicles of handicapped persons is desirable and therefore recommends passage of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 535, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 324-84 Ways and Means on S.B. No. 1503-84

The purpose of this bill is to clarify the definition of "gasohol" as used in the general excise tax law.

Your Committee finds that conflicts exist among state law, federal regulations, and industry practice in the definition of gasohol and that this measure is required to rectify the ambiguity as well as to preclude potential litigation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1503-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 325-84 (Majority) Ways and Means on S.B. No. 1706-84

The purposes of this bill are to extend the sunset date for the authorization to issue special facility revenue bonds to June 30, 1987 and to include a facility used for the processing and canning of fish and fish products in the definition of "special facility" for which revenue bonds may be issued.

Prior to July 1, 1983, the Department of Transportation was authorized to issue special facility revenue bonds to construct or improve maritime- and marine-related facilities situated on state land. Debt service on the revenue bonds was to be paid from revenues received by the department from lease rents for the special facilities. The purpose for the authorization was to promote private business activities and improve efficient operations within state harbors.

Under current law, the authorization lapsed on June 30, 1983. Your Committee, however, finds that the issuance of special facility revenue bonds is an important strategy in promoting the economic viability of maritime and marine operations, which maximum potential has yet to be realized, and the efficient operations of state harbors. Thus, the authorization to issue special facility revenue bonds should continue.

This bill extends the sunset date of the statute which authorizes the issuance of special facility revenue bonds. The bill also clarifies the definition of "special facility". One amendment includes explicitly in the definition of

"special facility" a building, structure, or facility used for the processing and canning of fish and fish products and thus, makes clear that special facility revenue bonds may be issued for that type of operation. Another amendment stipulates that the land on which a "special facility" is constructed or improved must be designated for maritime and marine operations, as well as owned by the State. The maximum principal amount of revenue bonds which may be issued under the authorization of the statute is increased to \$50,000,000. This amount more accurately reflects present and future needs.

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. 1706-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1706-84, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 326-84 Ways and Means on S.B. No. 1793-84

The purpose of this bill is to allow the counties to increase revenue for highway beautification and to cover the cost of removing abandoned vehicles.

Currently section 286-51, Hawaii Revised Statutes, limits an additional fee for certificates of registration to not more than 50 cents per certificate. The city and county collect approximately \$200,000 annually at the established rate of 50 cents. This amount is not enough to meet highway beautification requirements as well as for disposal of abandoned vehicles. This bill will amend section 286-51 by eliminating the limitation of 50 cents per certificate of registration fee.

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. 1793-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1793-84, S.D. 1.

Signed by all members of the Committee.

SCRep. 327-84 Ways and Means on S.B. No. 1507-84

The purpose of this bill is to increase the savings realized through the refinancing of general obligation bonds by allowing general obligation refunding bonds to be discounted not more than five per cent and by providing that issuance costs be paid from the proceeds of these bonds. This bill also allows the debt service for these bonds to be allotted among the original purposes for which the bonds were issued for purposes of the statements required to be filed by the director of finance. The director of finance testified in support of this bill.

Although most general obligation bond issues are sold competitively, general obligation refunding bond issues typically are sold on a negotiated basis to a bond underwriting syndicate. In a negotiated sale, it is preferable to be able to offer the refunding bonds for sale at a discount since this enhances the marketability of the bonds and increases the savings obtained from issuing these bonds.

Allowing payment of issuance costs from the proceeds of general obligation refunding bonds also increases the savings to be realized through refinancing since legal, printing, and other expenses can be amortized over the life of the bonds.

This bill allows the director of finance to determine the manner of allotting the debt service on the general obligation refunding bonds among the purposes for which the proceeds of the bonds being refunded were allotted in preparing the statements required by part IV, chapter 39, Hawaii Revised Statutes.

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. 1507-84, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as S.B. No. 1507-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 328-84 Ways and Means on S.B. No. 1757-84

The purpose of this bill is to add a new section to the Hawaii Revised Statutes to provide that the department of taxation shall not use the worldwide method of unitary taxation, and that it is the intent of the legislature that the department of taxation continue to apply the income tax law and the multistate tax compact as it had before the worldwide unitary tax concept was upheld by the United States Supreme Court.

This legislation is a result of the decision of the United States Supreme Court on June 27, 1983 in Container Corporation of America v. The Franchise Tax Board that the worldwide unitary method of determining income for tax purposes was acceptable. This case set off an uproar among the states and many foreign countries. The states saw this methodology as a quick way to gain large revenues. The foreign countries saw this method as violating tax treaties and double taxing foreign income.

The executive branch in Hawaii has given business conflicting signals. Shortly after the Container case was decided the Department of Taxation indicated that it would be adopting rules to provide for the unitary method of taxing multinational corporations. Several months after that statement the Governor indicated that the State would not be adopting the worldwide unitary methodology. After the Governor's statement, however, the Department of Taxation had a public hearing on rules which would have implemented the worldwide unitary methodology.

As the bill points out Hawaii has made many statutory statements encouraging foreign investment. Your Committee finds that due to the conflicting signals by the executive branch in this area a statement regarding the adoption of the worldwide unitary method of determining income for tax purposes also must be made.

The worldwide unitary method is not a tax, but a method of apportioning the income of a company that may be doing business in more than one state and country. The apportionment theory can be traced to the Multistate Tax Compact of which Hawaii is a member (chapter 255, Hawaii Revised Statutes) and the Uniform Division of Income for Tax Purposes Act (sections 235-21 to 235-39, Hawaii Revised Statutes).

The apportionment concept provides that although it is hard to determine exactly what income should be taxed by a state the use of the following formula will result in a relatively accurate determination of income.

$$\frac{\text{In-State property}}{\text{Total property}} + \frac{\text{In-State payroll}}{\text{Total payroll} + \underset{3}{\text{Total sales}}} + \frac{\text{In-State sales}}{\text{Total sales}} \times \frac{\text{Total corporate income}}{\text{Total income}} = \frac{\text{taxable by the State}}{\text{Total income}}$$

Because the formula uses total sales it is obvious that use of the formula may lead to greater income tax revenues to a state in worldwide economic good times while in worldwide economic bad times the income tax revenues to the state will be reduced.

Florida immediately adopted the worldwide unitary tax concept and many states initiated it or reviewed the manner in which it was working. Florida was informed by many large corporations that prior plans to enter Florida were being canceled while other large resident corporations reviewed the possibility of leaving Florida. Florida is presently closely considering repealing the unitary methodology. Illinois has been besieged by applications for income tax refunds by multinational corporations.

At this point the Committee notes that the Multistate Tax Compact and the Uniform Division of Income for Tax Purposes law has been on the books from 1968 and 1967, respectively, and the time is long past due for the Department of Taxation to adopt the necessary rules under those laws. The rules adopted, of course, should conform to the provisions of House Bill No. 1757-84.

Your Committee notes that the Department of Taxation is in favor of this bill but objects to the fact that the department is bound not to use this method but the taxpayer is not similarly bound. Your Committee agrees with the department and has amended the bill to provide that taxpayers shall not be allowed to use the unitary method as the department shall not.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1757-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1757-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 329-84 Ways and Means on S.B. No. 1783-84

The purpose of this bill is to conform the state income tax laws to those of the Internal Revenue Code as of December 31, 1983, except for the provision of the Code taxing social security and railroad retirement benefits.

This bill is the annual bill required from the department of taxation conforming the Hawaii law to federal law in this area. Your Committee notes that amendments by Congress to the federal Internal Revenue Code during the 1983 calendar year had little impact, and that for the first year in a long time there was no major income tax bill passed by Congress.

Your Committee agrees with the recommendation of the Department of Taxation, the Tax Foundation of Hawaii, and the Chamber of Commerce that the policy of this State is not to tax retirement benefits and that section 86, of the Internal Revenue Code, should not be made operative for the purposes of this Hawaii income tax law. Since section 86 would have first taken effect in the calendar year 1984, your Committee finds that there will be no revenue loss due to its nonadoption. Your Committee finds that there will be little revenue effect due to adopting this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1783-84 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. 330-84 Ways and Means on S.B. No. 1786-84

The purpose of this bill is to provide for an income tax credit to satisfy a constitutional requirement.

Your Committee finds that this bill implements the provisions of Article VII, section 6 of the Constitution of the State of Hawaii, which requires the legislature to provide for a tax refund or tax credit whenever the state general fund balance remains at a certain level for each of two successive fiscal years. This bill provides a tax credit for each qualified exemption claimed by a taxpayer which shall be deducted from income tax liability for the taxable year 1984.

Your Committee has amended this bill by inserting an amount of \$1 for the tax credit allowed and by making other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1786-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1786-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 331-84 Ways and Means on S.B. No. 1788-84

The purpose of this bill is to amend Act 277, Session Laws of Hawaii 1980, relating to the general fund expenditure ceiling, by deleting the sunset provision in section 5 of that Act.

Your Committee finds that the general fund expenditure ceiling has been with the State for four years and that two fiscal bienniums have been subject to the ceiling. During this period appropriations have been kept under the ceiling

and no better measure of the ceiling has been found than total state personal income.

Your Committee agrees with the Department of Budget and Finance that certain problems which have arisen in using the expenditure ceiling provisions should be taken care of at this time.

Therefore, your Committee has amended the bill by adding provisions to provide that when the total state personal income series is revised by the United States Department of Commerce, Bureau of Economic Analysis, the calculation of state growth and expenditure ceiling shall be made on the most recent available data and that the ceiling be recalculated back to the base year 1978-1979. Your Committee has provided that if such recalculation results in an expenditure ceiling for a prior year being lower than the appropriations in that year, such result shall not invalidate any prior appropriations.

Your Committee also has amended the provisions on the council of revenues estimates to provide that the council shall provide estimates of the total state personal income for the current and next succeeding calendar year for which the income has not been determined and published. This requirement will greatly assist in the preparation of the biennial budget as a calculation of the expenditure ceiling is necessary for both years of the biennium. Your Committee cautions that this estimate is just that, an estimate, and will apparently be based on less solid data than the data used by the council on revenues to project revenues.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1788-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1788-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 332-84 (Majority) Ways and Means on S.B. No. 1879-84

The purpose of this bill is to exempt from the general excise tax the gross proceeds arising from shipbuilding and repairs of surface vessels operated for commercial purposes out of any harbor in the State.

This measure extends the general excise tax exemption currently granted to shipbuilding or repair services rendered to surface vessels which are federally owned or engaged in interstate or international trade to shipbuilding and repair services rendered to surface vessels operated for commercial purposes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1879-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 333-84 (Majority) Ways and Means on S.B. No. 1930-84

The purpose of this bill is to propose the repeal of Article VII, section 6, of the Constitution of the State of Hawaii to eliminate the requirement that excess revenues be refunded or credited to taxpayers when the general fund balance at the close of each of two successive fiscal years exceeds five per cent of the general fund revenues for each of the two fiscal years.

Your Committee notes that this "disposition of excess revenues" provision was not included in the Taxation and Finance Committee package of the 1978 Constitutional Convention, but was a proposal made from the floor of the Convention. As this provision was voted down in the Taxation and Finance Committee, but added on the floor of the Convention, subjecting it to the electorate for reconsideration is appropriate.

Your Committee further notes that this provision fails to specify the amount to be credited or refunded, nor does it address disposition of credits and refunds in a projected deficit fiscal year. In view of further cutbacks of federal funds and the State's uncertain financial condition, the repeal of this provision would give the Legislature greater discretion to address retention of excess funds on a yearly basis and thus give the State more leverage in

offsetting a possible fiscal deficit.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. 1930-84, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 334-84 Ways and Means on S.B. No. 1943-84

The purpose of this bill is to remedy a situation where pest control operators who perform subcontracting work do not qualify as subcontractors or contractors under the general excise tax law.

Your Committee finds that prior to 1972 when pest control operators were included in the law on contractors, they were included as subcontractors for general excise tax purposes, but that since 1972 when a separate law was passed to regulate pest control operators, such operators have not qualified as contractors or subcontractors under the general excise tax law. Under section 237-13(3)(b), Hawaii Revised Statutes (hereinafter HRS), a contractor as well as a pest control operator as subcontractor pay the same general excise tax, in effect resulting in double taxation under the law as it now exists. For example, in a situation where a contractor with contracting work of \$500,000 who subcontracts \$100,000 of work to a pest control operator the tax would be imposed as follows: 4 per cent on \$500,000 on the contractor and 4 per cent on \$100,000 on the pest control operator.

The following example shows the effect of this bill. A contractor with contracting work of \$500,000 who subcontracts \$100,000 of work to a pest control operator would claim a deduction for \$100,000 (as allowed by section 237-13(b)(3), HRS, where subcontracts are with those defined as contractors under section 237-6, HRS) and be taxed at a rate of 4 per cent for the remaining \$400,000. The pest control operator as subcontractor would be taxed at a rate of 4 per cent on the \$100,000. This is the present situation in all other subcontracts in this area. Your Committee finds that this measure is required to rectify an inequity in the present general excise tax law relating to pest control operators and therefore recommends its passage.

Your Committee has amended this bill by conforming it to the Hawaii Revised Statutes and inserting the appropriate reference to existing law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1943-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1943-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 335-84 Ways and Means 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 on Ways and Means is in accord with the intent and purpose of S.B. No. 442, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 336-84 Judiciary on S.B. No. 1734-84

The purpose of this bill is to increase the costs and fees paid to sheriffs or police officers for service of process.

The costs and fees listed in the present statute have not been raised since

1979, while the general cost of living has continued its upward spiral. The increased costs and fees will reimburse sheriffs and police officers for their increased out-of-pocket expenses.

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. 1734-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1734-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 337-84 Judiciary on S.B. No. 1854-84

The purpose of this bill is to establish procedures for maintaining confidential records of legislative investigative committees.

Your Committee finds that in the past, the public may have been reluctant to provide legislative committees information where public confidences would not be preserved.

This bill provides for the preservation of confidential records of the committee, which would include its working papers, and materials received through means other than a public hearing. All materials would be stored with the Legislative Reference Bureau and destroyed after 10 years. Such records would not be released or disclosed except by written request of the Senate President or House Speaker. Thus, the public would be assured that confidential communications would not be disclosed.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1854-84, 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. 338-84 Judiciary on S.B. No. 1504-84

The purpose of this bill is to 1) delete the mandatory requirement that the Attorney General represent any person who wants to involuntarily hospitalize a mentally-ill person or a substance abuser, 2) provide that a patient who is under criminal charges but out on bond, bail, supervised release, or his own recognizance need not be returned to the custody of a law enforcement officer if the patient no longer meets the requirement for involuntary hospitalization; 3) clarify that a non-indigent or an indigent subject of a petition for involuntary hospitalization may contact his or her own attorney; 4) provide that the court may adjourn or continue a hearing if the subject fails to contact an attorney and the court finds that it is in the interest of justice to do so; 5) extend the time for filing of an involuntary hospitalization petition when a voluntarily admitted patient requests a discharge on a weekend or holiday; 6) clarify the wording of the present law and conform it to recommend drafting style.

Your Committee was very concerned about deleting the requirement that the Attorney General represent the petitioner. Both Family Court and a representative from a hospital expressed their opposition to relieving the Attorney General of this duty. Your Committee finds that the Attorney General's office, as a representative of the State, is the most appropriate agency to perform this function. It therefore amended the bill to retain the language of the present statute. It also made technical, nonsubstantive amendments to that statute.

Additionally, your Committee: 1) deleted the provision which would have freed the patient out on bond, bail, supervised release, or on his own recognizance, if the patient no longer meets the criteria for involuntary commitment; 2) eliminated the amendments regarding the subject contacting his or her own attorney and the court's ability to continue a hearing if the subject fails to contact an attorney; and 3) deleted the redrafting of the present law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1504-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1504-84, S.D. 2.

Signed by all members of the Committee except Senator Holt.

SCRep. 339-84 Judiciary on S.B. No. 1450

The purpose of this bill is to specifically allow the chairperson of the Hawaii paroling authority to serve in that capacity for more than two consecutive four-year terms and to allow that person to remain a member on the paroling authority for more than eight consecutive years. These extensions of the chairperson's tenure will enable the Hawaii paroling authority to achieve continuity in leadership and to hereby carry out its functions more effectively and efficiently.

Your Committee received testimony explaining that the Chairperson of the Hawaii paroling authority must be able to develop positive working relationships with a broad range of people and organizations. For example, he or she must be able to gain the respect of the inmates, work closely with the administration and staff of the Corrections Division, work in tandem with the other criminal justice agencies in furtherance of their objectives, while at the same time, being both sensitive and responsive to the sentiments of the entire community.

Your Committee recognizes that it requires a great deal of time, effort and patience to successfully cultivate these relationships and, if a Chairperson has been able to gain the respect and cooperation of these diverse groups through consistent and fair policies, compassion for the needs of the inmates and their families, and the capacity to make very difficult decisions under trying circumstances, the removal of that person simply for the sake of change neither benefits the criminal justice system nor the community.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1450, 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 Senator Holt.

SCRep. 340-84 Judiciary on S.B. No. 2026-84

The purpose of this bill is to create a new section in the Penal Code regarding Computer Crimes.

Your Committee finds that computer crime has become a major area of concern for law enforcement officials over this past decade. According to recent statistics, the average "white collar" embezzlement nets less than \$30,000 while the average computer crime is estimated to exceed \$600,000. Existing laws have proven inadequate to effectively prosecute and deter computer crime.

This bill sets forth relevant definitions and identifies the crimes of computer fraud and unauthorized computer use and their respective penalties. Computer fraud is designed for persons who manipulate computer data for their own financial gain. Unauthorized computer use is aimed at persons who enter a computer system to vandalize or destroy its contents.

Testimony which your Committee received in support of this bill suggested:

- 1) adding the definitions of "financial instrument", "property", and "services" as they have specific application in the computer crimes arena;
- 2) including specific language under the crime of computer fraud which would make it illegal to tamper with credit information;
- 3) making the maximum punishment a class C felony which would be consistent with the punishment for existing property crimes;
- 4) raising the threshold dollar amount to over \$200 where the charge is a felony; and
- 5) adding additional fines for the felony offenses.

Your Committee has incorporated all of these suggestions. In addition, each crime was further categorized into degrees and the threshold dollar amount for each degree increased to more accurately match the severity of the offense.

Further, your Committee amended the bill to clarify legislative intent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2026-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2026-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 341-84 Judiciary on S.B. No. 1663-84

The purpose of this bill is to require the Family Court, after determining paternity, to order the father to pay past child support from the time the paternity action was originally filed. It also corrects a grammatical error in the present law.

Frequently, the alleged father will unfairly attempt to delay the paternity proceedings for months, or, in the extreme cases, years. Since in most cases, the Family Court will only order child support to be paid prospectively after his paternity has been determined, such a dilatory tactic clearly works to the father's advantage. This bill would resolve the problem by mandating that the Family Court order retroactive child support from the time the paternity action was filed.

Your Committee amended the bill to provide that the Family Court shall order payment of past child support unless the mother has unreasonably delayed the action or some other reason exists that would make the award unjust. In that case, the court can reduce or deny past child support. Your Committee also clarified the language of the bill and made technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1663-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1663-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 342-84 Judiciary on S.B. No. 2164-84

The purpose of this bill is to place the same \$2,000 contribution limit that presently applies to candidates to committees.

According to the Campaign Spending Commission, when the United States Supreme Court handed down its landmark decision in Buckley v. Valeo, 424 U.S. 1 (1976), the most important aspect of our State campaign spending law became disclosure of expenditures and contributions. Your Committee, in order to reduce the importance and influence of money in the election process, believes it is important to address these concerns as they relate to committees formed to support or oppose ballot issues or questions.

Your Committee received favorable testimony from Common Cause Hawaii and the Save Nukolii Committee reflecting the need to regulate contributions made to ballot issue committees.

The United States Supreme Court, in the case of Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, California, 80 U.S. 737 (1981), ruled that contribution limitation placed on committees formed to support or oppose a ballot measure is unconstitutional. Based on this decision, your Committee amended the bill by requiring any committee formed to support or oppose a ballot issue or question to disclose the source of any contribution it receives over \$2,000 in a newspaper of general circulation. The bill would also require any ballot issue committee that fails to comply with the disclosure requirement to return any excess over \$2,000 to the contributor.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2164-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2164-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 343-84 Judiciary on S.B. No. 2208-84

The purpose of this bill is to repeal §18-1, Hawaii Revised Statutes, which describes the two Congressional districts.

Article IV, Section 9, of the State Constitution requires the State Reapportionment Commission to redraw reapportionment lines as required by law. To prevent continual amendment each time districts must be reapportioned, the present statute should be deleted as unnecessary.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2208-84 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. 344-84 Judiciary on S.B. No. 2073-84

The purpose of this bill is to authorize the payment of legislative salaries in equal semi-monthly amounts, beginning with the first pay period for state employees in November of the year the legislator is elected.

The Department of Accounting and General Services testified that equal and regular payment of salaries would achieve a more reasonable pattern of salary payment. Your Committee finds that such a payment schedule is more practical and efficient.

Your Committee amended the bill to delete reference to the requirement that payments be made semi-monthly. This would avoid the necessity of amending the section if the State changes its present semi-monthly payment schedule. It also made technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2073-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2073-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 345-84 Judiciary on S.B. No. 2072-84

The purpose of this bill is to require that legislative salaries be paid in such installments and at such times as provided by law.

Presently, the legislative salary plan provides that over seventy-five per cent of the annual legislative salary be paid during the months of February, March, and April, with the balance paid in equal installments over the remaining nine months. This results in 1) a disproportionately large amount of tax being deducted during the months the Legislature is in session, and 2) a relatively small amount being paid during the months the Legislature is not in session. The latter amount may be so low that it may meet the minimal income guidelines for public assistance. Your Committee finds that paying salaries in equal periodic installments will alleviate the problem.

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. 2072-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2072-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 346-84 Judiciary on S.B. No. 2071-84

The purpose of this bill is to amend Article VI, Section 3 of the State Constitution to require the consent of the Senate for the retention of justices and judges of the Supreme, Intermediate and Circuit Courts, after their term of office has expired.

Presently, if a justice or judge wishes to remain in office, that justice or

judge must petition the Judicial Selection Commission, which will renew the term of office if it determines that the justice or judge should be retained. Your Committee finds that the public should be allowed to openly voice their views on whether a justice or judge should be allowed to continue in office. By mandating the consent of the Senate in this process, your Committee hopes to encourage public expression and debate on this important community matter.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2071-84 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. 347-84 Judiciary on S.B. No. 1990-84

The purpose of this bill is to amend Hawaii Revised Statutes §707-26, relating to Custodial Interference in the First Degree, to change reference to Chapter 585 to Chapter 586.

This bill is a housekeeping measure. Chapter 585, relating to Ex Parte Temporary Restraining Orders, was repealed in 1982, and Chapter 586, relating to Domestic Abuse Protective Orders, was enacted in its place. However, Hawaii Revised Statutes 707-26 was not also amended to change the reference to the new chapter.

Your Committee amended the bill by creating two subparagraphs to clarify that violations of Chapter 586 are intended to be covered under Custodial Interference in the First Degree. The present language is vague, resulting in the recent dismissal of a charge under this section.

Your Committee also made technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1990-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1990-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 348-84 Judiciary on S.B. No. 1733-84

The purpose of this bill is to authorize the assignment of tax appeal cases to any available circuit court judge of the First Circuit.

Under Section 232-8 of the Hawaii Revised Statutes, only one judge of the circuit court of the First Circuit is designated to hear cases in the tax appeal court. A second judge shall be designated and prepared to hear cases in the event of first judge's disqualification, disability, or absence from the City and County of Honolulu. Your Committee finds that assigning available judges to tax appeal cases will integrate the Tax Appeal Court into the master calendar system for expediting all cases.

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. 1733-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1733-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 349-84 (Majority) Economic Development on S.B. No. 1923-84

The purpose of this bill is to provide the Public Utilities Commission (PUC) with statutory authorization to render interim decisions granting rate relief to a utility until such time as the PUC is able to render a final decision on the appropriate amount of permanent rate relief to which a utility company may be entitled.

Your Committee finds that the current statutory standard of nine months for the conclusion of rate cases is reasonable. Based on the National Association of

Regulatory Commissioners' Annual Report for 1981, the national average for telephone rate cases decided in that year was slightly less than seven months from the date of application until the final order. In 1982 the average was 7.12 months. According to the Regulatory Research Associate's report covering all state telephone and electric rate case decisions for the four-year period of 1980 through 1983, only 25 of over 900 decisions exceed 17 months, the time required in Hawaiian Telephone's last rate case.

Any delay of a rate decision is costly to the utility company, the State and County, and in the long run to the customers. While the utility gets to use about one-half of the increase, the other half goes to County, State, and Federal governments in the form of fees and taxes. Ratepayers can be adversely affected because the utilities' investors judge the utility company, in part, by its earnings record and demand higher interest on bonds and higher dividends for investing in utilities that do not have what they consider good earning records which results in higher operating costs. Thus, unanticipated and unreasonable delays deprive the utility company of a fair return, the governments of taxes, and customers of the lowest rate in the future.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1923-84 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 Fernandes Salling.
Senator Kawasaki did not concur.

SCRep. 350-84 Tourism on S.B. No. 1714-84

The purpose of this bill is to amend chapter 6E, Hawaii Revised Statutes, to expand and clarify the role of the Department of Land and Natural Resources (DLNR) in reviewing both public and private projects that may impact on significant historic properties.

Under current law proposed State projects which may affect historic property, especially those listed on the Hawaii register of historic places are subject to review by the DLNR. With regard to privately owned historic property, projects which affect historic property listed on the Hawaii register of historic places are subject to review by the DLNR.

This bill expands the DLNR's authority to include historic places "eligible for inclusion" in the Hawaii register of historic places.

Your Committee finds that this bill will strengthen and improve the ability of DLNR to preserve and protect historic properties.

Your Committee amended the bill by making technical nonsubstantive changes to conform the bill to recommended drafting format.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1714-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1714-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 351-84 (Majority) Ways and Means on S.B. No. 538

The purpose of this bill is to amend chapter 323, Hawaii Revised Statutes, to establish a "Hilo hospital authority" to manage the operation and maintenance and supervise the capital improvement of Hilo Hospital.

During the hearing held on this bill, representatives of the State and the County of Hawaii testified in favor of the transfer of Hilo Hospital to the County of Hawaii, with the understanding that the County of Hawaii intended to contractually obtain the management services of Hospital Corporation of Hilo, Inc., for the operation of Hilo Hospital. However, although the State and the County of Hawaii agreed on the concept of a transfer, the details regarding the transfer of Hilo Hospital have not yet been completely determined. Consequently, your Committee has amended this bill to provide for the transfer or lease of Hilo Hospital to the County of Hawaii with only general provisions

regarding the transfer or lease.

In addition, in view of the uncertainty about the details of such a transfer or lease to the County of Hawaii, your Committee has amended this bill to include alternative authority for the Governor to contract with a private nonprofit corporation for the operation and management of Hilo Hospital, with the conditions that the County of Hawaii must concur by resolution in such a contractual arrangement and must guarantee the financial obligations of the contracted private corporation by ordinance.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 538, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 538, S.D. 1.

Signed by all members of the Committee.
Senator Uwaine did not concur.

SCRep. 352-84 Ways and Means on S.B. No. 2240-84

The purpose of this bill is to require the board of trustees of the public employees health fund to allow employee-beneficiaries to participate in health benefits plans of employee organizations in lieu of the plans of the board. Contributions by public employers are required to be made for the plans of the employee organizations.

Your Committee finds that this bill will expand the options of employee-beneficiaries by making available a wider variety of health benefits plans. Your Committee considers the expansion good public policy.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2240-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 353-84 (Majority) Ways and Means on S.B. No. 1764-84

The purpose of this bill is to extend the tuition waiver program indefinitely for state residents who are members of the national guard or military reserves.

Currently the waivers are scheduled to expire June 30, 1984 and are available only to undergraduate students. This bill deletes the expiration date.

Your Committee on Higher Education heard favorable testimony from the Hawaii national guard, army reserve, the Chamber of Commerce of Hawaii, and others stressing the success of the program on enlistments, retention of reservists and guardsmen, and in the development of leadership skills. Testimony from the University of Hawaii included concerns of revenue loss from the waivers and the lack of clear need for extending waivers to graduate students.

Your Committee on Ways and Means finds that the tuition waiver program is a vital and productive program and is essential to maintaining a strong, educated, and motivated national guard and reserve.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1764-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 354-84 (Majority) Ways and Means on S.B. No. 1844-84

The purpose of this bill is to increase the amount of funds deposited annually into the University of Hawaii research and training revolving fund and to provide additional advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects.

Your Committee finds that the current limit on funds deposited into the research and training revolving fund is \$1,000,000. This bill establishes the limit at thirty per cent of all income generated from overhead receipts, with the remainder to be deposited into the state general fund. Translated into dollars, this new limit will provide approximately \$2,000,000 annually to the university

for support of various research and training activities, allowing the university to remain competitive with other institutions in attracting research funds by providing appropriate reinvestments of overhead in personnel and equipment, incentives to established researchers, and seed money to assist younger faculty in seeking federal support for their research.

Your Committee also finds that under the federal reimbursable cost system the university must first incur expenses and then bill the federal government for reimbursement, a process that takes 10-12 weeks. Existing statutes limit cash advances for such reimbursable costs to \$100,000. This bill will increase the limit on cash advances to a more realistic \$2,500,000, which will provide the required working capital necessary to attract and receive federal dollars in support of research and training projects.

Your Committee recognizes that university research activities play a crucial role in attracting federal funds to the State. In addition, such activities help to create an environment conducive to business development and assist in solving the problems of the State and the Pacific Basin. Your Committee therefore strongly recommends passage of this bill.

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. 1844-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1844-84, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 355-84 Ways and Means on S.B. No. 2119-84

The purpose of this bill is to restructure the present classification and compensation systems for state and county employees in order to provide for equal pay for work of comparable value.

Historically there have been several attempts to address the problem of pay equity. On the federal level there has been Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, and Executive Orders 11246 and 11375. Further, Hawaii Revised Statutes, sections 76-1 and 89-1, provide for equal opportunity regardless of sex and for merit principles in selection and classification. Facets of this issue have also been adjudicated through the courts. In Civil No. 65791, First Circuit Court, State of Hawaii, Judge Toshimi Sodehara ruled: "The statutory concept of equal pay for equal work is an inherent ingredient of the constitutional Doctrine of Merit Principle and is also impliedly embodied within the principles set forth in Section 76-1 of the Hawaii Revised Statutes."

These aforementioned pay equity efforts, however, dealt specifically with the concepts of "equal pay for equal work" (paying women equally with men when they are performing the same or closely similar type of work for the same employer), and "equal employment opportunity" (making jobs available to all qualified applicants regardless of sex or ethnicity). The goals of "equal pay for equal work" and "equal employment opportunity" have, for the most part, been achieved in public employment in Hawaii. Despite this achievement, there exists a third pay equity problem in Hawaii that requires resolution. This problem is the gender-based wage gap that exists between job classes that are female-dominated and male-dominated. For example, a secretarial position which is in a female-dominated job class is priced lower than a maintenance mechanic's position which is in a male-dominated job class, even though both jobs are of equal value to the employer.

This bill proposes to correct such disparity by requiring a review of the present classification and compensation systems and the restructuring of the present system into a bias-free system of classifying, evaluating, and pricing of government jobs.

Your Committee finds that state governments which in the past have taken the lead in promoting equality of rights for women and minorities are now exercising their leadership in the achievement of comparable worth. As of September 1983, job evaluation studies were completed in Connecticut, Idaho, Illinois, Michigan, Minnesota, Washington, and Wisconsin while Alaska, Florida, Iowa,

Kentucky, Maine, Montana, New Mexico, New York, Ohio, and Oregon were in the process of conducting such studies. California, like Iowa, Minnesota, and Washington, has amended its civil service law to require equal pay for work of comparable value. Pennsylvania is considering the amendment of its anti-discrimination laws to require pay equity in the public and private sectors.

Your Committee further notes that a growing number of states have committed funds to implement pay equity for their employees. Minnesota allocated \$21.8 million in 1983 to begin upgrading undervalued female jobs. Washington has provided \$1.5 million to begin upgrading female-dominated jobs, and New Mexico, in addition to mandating a job evaluation study, appropriated \$3.3 million in 1983 to provide wage increases for the 3,000 lowest paid state employees, eighty per cent of whom are women.

Amidst the flurry of activity in many states, Hawaii, which was the first state in the nation to ratify the Equal Rights Amendment to the United States Constitution in 1972, is far behind in the comparable worth movement. Your Committee believes it is time for this State to make its commitment to implement comparable worth for its public employees.

Your Committee received testimony from the University of Hawaii, the State Commission on the Status of Women, the Honolulu County Committee on the Status of Women, the City and County of Honolulu, the Hawaii Government Employees' Association, the Public Employees Management Association of Hawaii, Hawaii Women Lawyers, the League of Women Voters, and the American Civil Liberties Union of Hawaii, and the State Department of Personnel Services.

Testimonies presented by the personnel directors of the State Department of Personnel Services and the City and County of Honolulu Civil Service Department raised concerns about the ramifications a comparable worth policy might have on collective bargaining and the merit system. While your Committee agrees that these are legitimate concerns, it is of the opinion that the impact on present laws and practices cannot be determined until a job evaluation study is conducted to ascertain the extent of wage disparity that exists in the civil service classification and pricing system.

Your Committee, therefore, has amended the bill to provide for a temporary commission on comparable worth to be chaired by the Legislative Auditor and comprised of the Personnel Directors of the State and the counties, and the Chairperson of the Public Employees Compensation Appeals Board or their representatives. The Commission will include personnel representatives from the Department of Education and the University of Hawaii, and representatives of each public sector union representing public employees, the Public Employees Management Association of Hawaii, and the Industrial Relations Center of the University of Hawaii. The study commission will review the concept of comparable worth and its impact on the existing statutes on the merit system, compensation, collective bargaining, and other relevant subject matter. If the commission finds that a common job evaluation system is to be established, the commission is required to recommend the type of job evaluation system or systems most feasible to meet the needs of the varied types of public employees, or the commission may suggest other options to achieve the objective of comparable worth. The commission also will recommend appropriate statutory changes.

Your Committee feels that such a commission headed by the Legislative Auditor will provide the proper balance and impartiality required in a study of this nature.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2119-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2119-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 356-84 Agriculture on H.B. No. 1422

The purpose of this bill is to require a maximum shelf life of eight days for processed milk intended for sale by retail or wholesale markets.

Currently, there is no maximum period prescribed by statute for the shelf life of processed milk intended for sale. Individual processors are permitted to set their own "pull dates" for processed milk, and at present, the pull dates vary

from ten to twelve days.

Your Committee was presented substantial testimony and evidence in the form of data and studies indicating that the establishment of a mandatory ten-day "shelf life" would provide a more flavorful and nutritious product to the consumers. The importance of milk as a nutritious food has long been recognized, milk is an excellent source of high quality protein. Milk is also a good source of minerals, most notable calcium and phosphorus, and vitamins, chiefly some of the B complex and vitamin D. Milk is also a highly perishable commodity. Due to its importance in the diets of young children it is necessary to ensure that milk be wholesome, nutritious and safe. Milk consumption has been shown to decrease when the consumer drinks unpalatable milk. In a child this could lead to resistance to milk at a crucial period.

The evidence presented to your Committee shows that two types of bacteria flourish in milk - mesophilic and psychrotrophic. Mesophilic bacteria can be controlled by low temperatures, whereas psychrotrophic bacteria is tolerant of cold temperatures and is controlled by pasteurization. It is virtually impossible, though, to process milk without post-pasteurization contamination with these organisms. Also certain enzymes that exist in the psychrotrophic bacteria can survive pasteurization even when the bacteria themselves are killed. The significance of this is that the enzymes that may come from high psychrotrophic counts in raw milk are found to produce objectionable bitter flavors in the pasteurized milk during extended storage up to 2 weeks. The psychrotrophs from post pasteurization contamination or those that survive pasteurization can multiply at refrigeration temperature and produce fruity, fermented and unclean flavors, even when present in low numbers. Therefore, good evidence indicates that even under proper refrigeration, post pasteurization contaminating psychrophilic microbes proliferate in milk and cause deterioration of quality.

Your Committee received a number of studies indicating that a positive relationship between increasing bacterial numbers and loss of flavor quality exists. The evidence also shows that the quality flavor of milk is affected by biological and chemical reactions. Milk is very susceptible to an irradiated flavor defect caused by a combination of photo degradation of some protein component and lipid oxidation. Milk in paper cartons is more resistant to this defect because cartons transmit less light. But even milk in cartons over an extended period will develop the off-flavor.

Milk is a delicately flavored food that is susceptible to microorganisms as well as chemical and biological changes. When consumers purchase milk that has undesirable flavors they are less likely to continue to drink it. This is particularly true with children. As a result the overall level of nutrition tends to suffer. By reducing per capita consumption of milk, we are creating a situation where the human diet, particularly youth, is deficient in calcium. In later life, this will appear as osteoporosis.

Your Committee acknowledges that the consumer cannot test milk quality before purchase, nor does the consumer know how much time has elapsed since bottling. Milk differs from other perishable agricultural products in that the normal tests of "freshness", visual, odor and feel cannot be applied as in the case of meats, fruits, and vegetables. The only apparent indicator of milk quality is the time remaining before the code date expires.

Upon researching statutes that presently exist in other states and reviewing the recommendations proposed to this Committee, your Committee found a range from 7 to 15 days. The majority of the recommendations fall in the range of 10 to 12 days. The recently enacted state statutes fall in the 10 to 12 days with some states having a 10 day limit with an option to extend to 12 days based on scientific evidence.

Based on all testimony received and heard by your Committee, all existing language contained in H.B. No. 1422, H.D. 1, was deleted and the following provisions were substituted:

- (1) To provide for milk to be maintained at a temperature no greater than 45 degrees Fahrenheit;
- (2) The maximum "shelf life" was changed from eight to ten days;
- (3) To provide uniform labeling requirements;

- (4) To exempt milk that has been sterilized, ultra-pasteurized, cultured, or packaged in hermetically sealed containers from the provision of this bill; and
- (5) To permit the Director of Health to lengthen or shorten the "shelf life" based on scientific data, but in no event greater than twelve days.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1422, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1422, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling and Machida.

SCRep. 357-84 Consumer Protection and Commerce on S.B. No. 1716-84

The purpose of this bill was to update statutory provisions relating to the licensure, regulation and supervision of financial institutions.

Your Committee received favorable testimony from the Bank Examination Division of the Department of Commerce and Consumer Affairs, the Hawaii Bankers Association, and the Hawaii Consumer Finance Association and made the following amendments:

Section 1 clarifies uncertainties that currently exist in Section 401-14, Hawaii Revised Statutes, as to who may demand access to confidential information relating to financial institutions that are supervised and examined by the Bank Examiner.

The amendment to Section 401-14 specifies information that constitutes property of the Bank Examiner and which should not be disclosed, except to certain specified parties such as Federal or State banking authorities and to the institution under examination. The amendment would conform the State law to Section 309.5 of the Federal Deposit Insurance Corporation Rules and Regulations and Section 505.5 of the Federal Home Loan Bank Board Rules and Regulations for purposes of uniformity in joint supervision and examination of financial institutions.

Section 2 adds a new section to Chapter 402, Hawaii Revised Statutes, to make the willful or knowing circulation of false statements about a financial institution a Class C felony. The amendment was prompted by the Committee's concern about last year's run on Honolulu Federal Savings and Loan Association.

Section 3 amends Section 408-2.1, Hawaii Revised Statutes, to enable companies other than industrial loan companies to use the words "finance" or "financial" in their names or titles. Your Committee heard testimony by the Bank Examiner that the current law precludes many legitimate businesses from entering the State, without yielding an equivalent gain in terms of safety and soundness to the consumer.

Section 4 amends Section 408-8, Hawaii Revised Statutes, to clarify and streamline the administrative licensure process by:

- (1) Requiring an industrial loan company to commence business within sixty days after receiving a notice of approval of application for license, with the possibility of an extension of time by the Bank Examiner; and
- (2) Requiring an administrative hearing only in cases where the Bank Examiner is inclined to deny an application for an industrial loan license.

Section 5 amends Section 408-11.1, Hawaii Revised Statutes, to clarify ambiguities surrounding the transfer of a license, particularly the common misconception that an industrial loan license can be "bought" at a premium. The amendment clarifies administrative procedures for transferring a license or voting stock. Additionally, the amendment specifies that:

- (1) A transfer or assignment of an industrial loan license must be incidental to a sale of all or substantially all of a licensee's ongoing operations

and the sale must have pen written approval of the Bank Examiner;

- (2) A transfer of voting stock requires the prior approval of the Bank Examiner; and
- (3) A potential license transferee must meet the same statutory criteria set forth in Section 408-8, Hawaii Revised Statutes, that are imposed on a de novo applicant for licensure.

Section 6 amends Section 408-14, Hawaii Revised Statutes, by: (1) specifying that an industrial loan company cannot issue investment certificates, unless the Bank Examiner determines that the company is in good standing under State law; (2) deleting obsolete requirements referring to the period prior to January 1, 1978; and (3) specifying and distinguishing administrative procedures applicable to a company's violation of ratio requirements, as opposed to violation of reserve requirements.

Section 7 deletes obsolete provisions in Section 408-14.5, Hawaii Revised Statutes.

Section 8 amends Section 408-21, Hawaii Revised Statutes, to require that all books, accounts, and records relevant to an industrial loan company's transactions in Hawaii be kept and maintained at its principal office in Hawaii. Given recent major technological changes that have occurred in the area of record maintenance, the Bank Examiner is authorized to promulgate rules to provide for alternate locations, methods, and procedures for maintaining books, accounts, and records.

The amendment to Section 408-21, Hawaii Revised Statutes, also imposes a penalty for knowingly (as opposed to the current "wilfully and knowingly") delaying or withholding reports required to be submitted to the Bank Examiner. The current penalty of \$10 per day is increased to \$100 per day.

Section 9 amends Section 408-21.5, Hawaii Revised Statutes, and clarifies the type of information that must be submitted by an industrial loan company issuing investment certificates or debentures. The amendment requires a company to submit its financial statements prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant.

Section 10 amends Section 408-22, Hawaii Revised Statutes, to conform with Section 401-3, Hawaii Revised Statutes, the amendment requires the Bank Examiner to conduct an examination of industrial loan companies at least once every 18 months, rather than at least once every year.

Section 11 amends Section 408-23, Hawaii Revised Statutes. It specifies that examination reports are the confidential property of the Bank Examiner, and clarifies the applicable procedures in a situation where Bank Examiner's records are subpoenaed. The amendment is modeled after Part 309 of the Federal Deposit Insurance Corporation Rules and Regulations and Section 505.6 of the Federal Home Loan Bank Board Rules and Regulations.

Section 12 amends Section 408-25, Hawaii Revised Statutes, to provide for revocation of an industrial loan license when a company is inactive for a period of six months or more. The amendment is designed to address current inactive licensees.

This bill was further amended 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 S.B. No. 1716-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1716-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Fernandes Salling and Yamasaki.

SCRep. 358-84 Consumer Protection and Commerce on S.B. No. 1548-84

The purpose of this bill was to amend Section 431-563, Hawaii Revised

Statutes, to permit the State and federal securities authorities to assert jurisdiction over the securities aspects of variable contracts. Presently, the Commissioner has sole and exclusive authority to regulate the issue and sale of variable contracts.

Your Committee received testimony from the Insurance Division of the Department of Commerce and Consumer Affairs and the Hawaii State Association of Life Underwriters and finds that this measure will result in greater regulatory control and efficiency in the licensing of individuals selling variable contracts, as well as increasing consumer protection. In accordance with testimony submitted by the Hawaii State Association of Life Underwriters and the Insurance Commissioner, your Committee amended the bill as follows:

1. Created a new Section 1 which adds a definition of "variable contract" to Section 431-563(a), Hawaii Revised Statutes. "Variable contract" is defined to mean a contract issued by a life insurance company, wherein some part or all of the values accrued in the contract can be both credited with investment gains and charged with investment losses.
2. Old sections 1, 2, 3, 4, 5, and 6 were renumbered to 2, 3, 4, 5, 6, and 7, respectively.
3. Page 4, lines 5-7, the new language was changed to read, "except that "security" includes variable contracts as defined in Section 431-563 (a)."
4. Page 8, the new language on line 13 was amended to read, "Any variable contract as defined in Section 431-563 (a)."

These amendments effectively remove the distinction that formerly existed between the regulation of variable annuity contracts and other variable contracts, which the Legislature resolved by Act 53, Session Laws of Hawaii 1981.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1548-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1548-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Fernandes Salling and Yamasaki.

SCRep. 359-84 Consumer Protection and Commerce on S.B. No. 1695-84

The purpose of this bill was to amend the motor vehicle repair shops and mechanics licensing law, Chapter 437-B, Hawaii Revised Statutes, to require the licensing of motor vehicle body repair shops and motor vehicle repairers.

Testimonies submitted are all in general agreement with the bill. However, the Department of Commerce and Consumer Affairs (DCCA), indicated the appropriation that would be required if the bill passes would be prohibitive under present fiscal conditions. The DCCA's testimony supports the bill, and suggests that for now, the scope of the licensing requirement cover rebuilt motor vehicle repairers, and a broader scope for licensing requirements be considered at a later date. Your Committee concurs with this approach.

Your Committee finds that out of the estimated 300 body shops and about 1500 individuals employed by those shops, not more than ten per cent are really capable of doing rebuilding work. Licensing this ten per cent would require about \$25,000 in examination costs and approximately \$10,000 in personnel costs. However, if the licensing requirement extends to those body shops which work on the steering, front and rear suspension, frame and unibody of all vehicles whether rebuilt or not, the administrative costs would increase significantly. The total cost would be extremely difficult for the department to absorb under the present tight fiscal conditions.

Your Committee has amended the bill to:

1. Define a "rebuilt motor vehicle" in Section 286- as a motor vehicle that was declared a total loss by an insurance company. In all parts of the bill, the term "motor vehicle repairer" which amends the existing statutes will be amended to read "rebuilt motor vehicle repairer" instead. This amendment limits the extent of licensing coverage in light of present fiscal conditions.

2. On page 3, retain all the existing statutory language on line 5 and 6; add "including the rebuilt motor vehicle as defined in Section 286- " at the end of line 6; and delete the proposed language on line 6 to 9.

3. On page 7, add the word "application" between "original" and "biennial" on line 2; delete line 3 beginning from "thereof" through line 6 at "\$20"; add after "renewal" on line 3 "for the motor vehicle repair dealer, the motor vehicle mechanic and the rebuilt motor vehicle repairer shall be provided in the rules adopted by the department pursuant to Chapter 91."; and replaced the word "and" on both lines 11 and 13 with "or".

4. On page 15, delete the word "two" in line 3 and add "five" instead. The grandfather provision is amended to extend to five years from two years in an effort to eliminate the less qualified persons.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1695-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1695-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Fernandes Salling and Yamasaki.

SCRep. 360-84 Consumer Protection and Commerce on S.B. No. 2081-84

The purpose of this bill is to regulate the sale of business opportunities so as to minimize losses to the purchaser where full and complete information is not provided to the purchaser. The sale of business opportunity includes the sale or lease, offer for sale or lease or advertisement for sale or lease of merchandise or services at an initial investment exceeding \$5,000 to enable the purchaser to begin a business. The bill provides that a prospective purchaser be given a disclosure statement containing certain information at least seven days prior to the sale of the business opportunity. This statement must be filed with the Director of the Department of Commerce and Consumer Affairs.

The bill also provides specific rights and prohibitions governing the relationship between the seller and purchaser to assure good faith dealing and prevent unfair and deceptive practices by the seller. The bill provides remedies for violation of its provisions which include the issuance of stop penalties of not more than \$25,000 for violating the terms of an injunction or of not more than \$2,000 for failing to comply with certain provisions of the bill as well as criminal penalties for wilful violations of this Act.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs which stated that the bill provides statutory provisions similar to those provided by Hawaii's franchise statute. Because of the similarity between the franchise statute and the provisions of this bill, case law under the franchise statutes could be used as precedents and legal authority in the application of the business opportunity law. Your Committee notes that this bill is based on a similar Georgia Statute which has proved to be extremely successful.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2081-84 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, Fernandes Salling and Yamasaki.

SCRep. 361-84 Consumer Protection and Commerce on S.B. No. 1640-84

The purpose of this bill is to require persons, convicted of failing to maintain no-fault insurance, to furnish and maintain proof of financial responsibility.

The bill, as received by your Committee, amended Section 287-20, Hawaii Revised Statutes, to require persons, who do not have effective no-fault policies, maintain proof of financial responsibility and a \$35,000 bond for 3 years.

The Hawaii Insurers Council and the Hawaii Independent Insurers Agents Association testified in support of enhancing no-fault enforcement provisions.

Your Committee amended the bill to allow persons to demonstrate financial responsibility to maintain the bond or file a certificate of insurance.

Your Committee also made non-substantive technical amendments to clarify the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1640-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1640-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Fernandes Salling and Yamasaki.

SCRep. 362-84 Consumer Protection and Commerce on S.B. No. 1877-84

The purpose of this bill was to amend Chapter 514A, Hawaii Revised Statutes to clarify the rescission rights of purchasers of condominiums subject to the Horizontal Property Regimes Act.

Existing law gives a purchaser a right to rescind the sales contract thirty days following the delivery of the final public report to the purchaser. The bill provides that unless a purchaser has waived his rescission rights, he has the right to cancel the agreement to purchase an apartment prior to the earlier of: 1) the conveyance of the apartment to the purchaser or 2) midnight of the fifteenth day following the delivery of the final public report to the purchaser. Upon rescinding the agreement the purchaser is entitled to a full refund of all moneys paid less the escrow cancellation fee and other costs incurred for the purchase up to a maximum of \$250. The bill further provides that a notice explaining the purchaser's rescission rights must be delivered together with the final public report. The wording of the notice of rescission is provided in the bill. A purchaser also has a right to rescind the binding contract for material changes in the condominium project which substantially affects the use or value of the purchasers apartment or use of amenities of the project.

Your Committee received testimony from the Real Estate Commission and made the following amendments to the bill:

1. Provide that rescission rights of the purchaser shall be governed by the terms of the sale contract in addition to section 514A-62 and 514A-63, Hawaii Revised Statutes. Your Committee finds that a purchaser should not be precluded from exercising a right of rescission provided by contract.
2. Retain existing language to provide that the developer and any other person offering any apartment shall not enter into a contract until a copy of the public report has been delivered to the purchaser. Both the developer and sales agent would provide a copy of the same public report to the purchaser.
3. Retain the existing law allowing a 30 day period for the purchaser to execute and return the receipt for the public report and exercise the right to rescind the sales contract. Your Committee finds that 15 days is not sufficient time for the purchaser to exercise rescission rights.
4. Retain Section 514A-63 and 514A-66. Repealing these sections would change the whole intent for issuing the preliminary and final public reports. The requirements for obtaining a preliminary report is not as stringent as a final report and allows the developer to "test the market" and determine purchaser interest in the proposed project. The bill would make the sales contract binding on the purchaser regardless of whether a preliminary final report has been issued to the purchaser. The bill would make it unnecessary to have both a preliminary and final report.

Your Committee has 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 S.B. No. 1877-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1877-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Fernandes Salling and Yamasaki.

SCRep. 363-84 Consumer Protection and Commerce on S.B. No. 1744-84

The purpose of this bill was to require the licensing of each person who provides services within the practice of medicine under the supervision of a physician, and to reduce the existing three year residency training requirement for foreign medical graduates to one year.

The bill further provides as follows:

- 1) Amend existing law and require the Board to establish clear guidelines for shortage areas where physicians with a temporary license may practice.
- 2) Provide that the Medical Advisory Committee may also advise the Department of Commerce and Consumer Affairs (DCCA).
- 3) Require the employment of an employee of the DCCA to administer the medical claims conciliation panel. Presently the DCCA provides administrative support to the Board.
- 4) Require consumer complaints, peer review committee adverse decisions, insurance reports on medical tort cases, and convictions of physicians for violation of controlled substance law and possible violations of medicine and surgery law to be transmitted to the DCCA instead of the Board.
- 5) Amend the procedure for subpoena of adverse decision reports by allowing for the subpoena of evidence other than patient records and deleting references to the Board. Presently only the production of hospital records of those whose cases were reviewed by a peer review committee may be compelled. This amendment broadens the subpoena power.
- 6) Allow temporary certification for emergency ambulance personnel and require the Board to establish an emergency medical services committee and to define the scope of practice of emergency medical services and degrees of supervision required.
- 7) Establish a uniform method of certifying persons as qualified in emergency medical services by requiring the Board to use certification standards of the National Registry of Emergency Medical Technicians.
- 8) Require the Board to establish standards relevant to medical practice in Hawaii.
- 9) Clarify the Board's responsibilities by requiring it to assume direct responsibility for reviewing medical training credentials and administering examinations.
- 10) Extend the existence of the Board of Medical Examiners to December 31, 1990. Currently the Board's existence is effective until December 31, 1984.

Favorable written testimony in support of the bill was submitted by the Board of Medical Examiners, the Department of Commerce and Consumer Affairs, and the Department of Health of the City and County of Honolulu with suggested amendments to the bill in order to ensure safeguards for the quality of the practice and educational experience of physicians and physician's assistants.

After hearing testimony on the bill your Committee has made the following amendments to the bill:

- 1) The paragraph on page 1, lines 4 through 8 was rewritten to clarify when licensing as a physician's assistant is required, thereby limiting the coverage of the licensing requirement.
- 2) Page 1, line 10: The words "a license" were changed to "certification"; page 1, line 16: The words "issue a license" were changed to "grant certification"; page 2, line 9: The word "license" was changed to

"certification". This assures a level of training and competency for physician's assistants by requiring physician supervision. Licensing an individual to practice medicine implies that an individual may practice independently of any supervision. This is contrary to the intent of the bill.

- 3) Page 3, line 17: Insert "written and" between "the" and "practical".

Page 3, line 21: Insert "written and" between "the" and "practical". The changes are necessary since the National Registry examination consists of both written and practical sections, and the tests are administered at the same time.

- 4) Page 4, line 3: Delete the word "may" and insert the word "shall".
- 5) Pages 14 and 16: Remove references to "intern" and "internship", instead use "resident" and "residency". References to intern and internship are changed to resident and residency because these are the terms currently used to designate persons and positions in approved postgraduate training programs in medical fields.
- 6) Page 16, line 2 and lines 11 through 13: Delete "one year of medical experience or training", and replace with "two years of medical residency"; and remove item (ii) referring to the Fifth Pathway Program. This will safeguard the quality of educational experience of physicians who are educated in foreign medical schools which do not provide as much clinical training as schools in the United States.
- 7) Page 21, lines 22 and 23; and page 22, line 1: Delete "and other evidence used by a peer review committee to arrive at its decision or potential decision". The reason for this change is that the peer review process can continue to be of value only if the confidentiality of their proceedings is maintained.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1744-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1744-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Fernandes Salling and Yamasaki.

SCRep. 364-84 Consumer Protection and Commerce on S.B. No. 1538-84

The purpose of this bill is to clarify which licensees must pay into the compliance resolution fund and to earmark fines and penalties collected through prosecution for payment into the fund.

Under existing law, every person who obtains a license from the professional and vocational licensing division of the Department of Commerce and Consumer Affairs pays a fee of \$10 which is deposited into the compliance resolution fund. The department's compliance resolution fund was created in 1982 to address the imminent collapse of the Department of Commerce and Consumer Affairs consumer complaints and enforcement process. A special fund was created to hire investigators, attorneys, and clerical support personnel to expeditiously receive, investigate, and prosecute consumer complaints. The temporary positions created are funded solely from the annual assessment paid by licensees. Since 1982, the personnel hired through the fund have reduced the backlog of disciplinary cases from four to one and a half years.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs that the administration and monitoring of chapter 514E, Hawaii Revised Statutes, covering time sharing, and sections 485-6(15) covering private offerings of securities and 485-14 Hawaii Revised Statutes, covering securities salesmen and dealers, consume an inordinate amount of departmental resources. Presently, other departmental resources must be sought to pursue violations of these sections. Assessing a compliance resolution fund fee from these licensees will insure that adequate funds are available to monitor these cases. In addition, your Committee finds that specifying that fines or penalties collected as a result of prosecuting a case shall be paid into the compliance resolution fund will aid in maintaining a self-funding level for investigators,

attorneys, and other personnel necessary to prosecute consumer complaints.

The Department of Commerce and Consumer Affairs interprets the word "license" to include permits, certificates, and registrations issued through the licensing process. This bill conforms the statutory language of section 26-9(m), Hawaii Revised Statutes, with the Department's usage.

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. 1538-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1538-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Fernandes Salling and Yamasaki.

SCRep. 365-84 Consumer Protection and Commerce on S.B. No. 1868-84

The purpose of this bill was to allow the board of directors of a condominium project greater flexibility in use of the common elements.

Under current law, apartment owners may only use the common elements in accordance with the purpose for which they were intended. Thus, boards of directors of the condominium projects are unable to utilize unused common elements for useful purposes.

This bill would allow the board of directors to change the use of a common element upon approval of the owners of seventy-five per cent of the common interests or to lease or enter into agreements for use of common elements.

Your Committee amended the bill by:

1) Adding after the word "are" on line 16, page 1 of the bill as introduced, the phrase "not actually used by any of the apartment owners for an originally intended special purpose" and deleting from line 1, page 2, the words "to have no intended purpose". The purpose of the change was to take into account that all common elements have an intended purpose.

2) Revising the proposed subsection (d)(3) to require the consent of all mortgagees whose interests would be derogated by a lease or other use. The purpose of this amendment was to recognize that mortgagees whose interests are affected should have the right to veto a proposed change in use.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1868-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1868-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Fernandes Salling and Yamasaki.

SCRep. 366-84 Judiciary on S.B. No. 1671-84

The purpose of this bill is to clarify and broaden the statute regarding rights of arrested persons to allow the arrestee, within two hours after being booked, to make up to three telephone calls. Such calls may only be made to the person's counsel, clergy member, social worker, family, close friend, or employer. The arresting agency shall not bear any special costs of such telephone calls and may monitor these calls if it suspects the arrestee is attempting to thwart the law.

The language of the present law, Section 803-9(2) of the Hawaii Revised Statutes, limits the arrestee to "a telephone, cable, or wireless message," which must be conveyed through a police officer or another person only to the counsel or family member. The arresting agency may, in its discretion, refuse the arrestee's request but its refusal must be a reasonable one.

Recent information indicates that because the arresting agencies retain a great deal of discretion in determining what is "reasonable", this law is not applied

uniformly; numerous arrestees have been denied permission to make any outside communication to counsel or family.

Your Committee has amended this bill to remove the agency's discretion in determining whether or not an arrestee may make at least one telephone call. The arresting agency retains discretion in determining whether the arrestee may make the second and third calls.

Your Committee recognizes the importance of allowing an arrestee an adequate opportunity to secure legal counsel and other forms of support and believes that the equally important concerns regarding security for and the placing of undue financial burdens upon the arresting agency are adequately addressed in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1671-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1671-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 367-84 (Majority) Judiciary on S.B. No. 1738-84

The purpose of this bill is to prevent state officials, employees, and board and commission members from being held personally liable for civil damages resulting from their acts or omissions connected with their functions and duties unless those acts or omissions are grossly negligent or malicious.

Your Committee heard testimony supporting the bill as a means of protecting government personnel from frivolous suits, suits intended as harassment, and, more importantly, from suits which may be intended to intimidate these persons and to thereby influence policies and decision making.

Your Committee also heard testimony that the added provision was placed inappropriately in the Good Samaritan statute. Your Committee agrees that while limiting the personal liability of government officials, employees, and board and commission members is a worthwhile end, it is a concept which is completely separate and distinct from the purpose and intent of the Good Samaritan Law.

Accordingly, your Committee has amended the bill by deleting all references to the Good Samaritan Law. The new language will simply be added as a new section in the existing chapter relating to torts. This amendment has the added benefit of substantially shortening the bill.

Your Committee was also concerned that the standard of liability provided for in the bill, an act or omission that is grossly negligent or malicious, is one which affords governmental personnel less protection than currently provided by case law. Your Committee therefore has amended the bill to conform the standard to that announced in *Medeiros v. Kondo*, 55 Hawaii 499 (1974): that liability can only be found if the act was malicious and for an improper purpose.

Further, your Committee has made technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1738-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1738-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Carpenter and George did not concur.

SCRep. 368-84 Judiciary on S.B. No. 1765-84

The purpose of this bill is to provide for four year terms for all members of the Board of Regents.

A survey of boards and commissions on higher education in various states reflected an average appointed term of six to eight years. In comparison, the Board of Regents in Hawaii are currently appointed for terms of two and four years, thus identifying this State as one of the very few with terms of less

than six years.

Your Committee finds that two years is too short of a time for a Regent to make a meaningful contribution to the University of Hawaii and the community as a whole. It is therefore in agreement with the proposal.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1765-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 369-84 Judiciary on S.B. No. 1898-84

The purpose of this bill is to authorize Family Court to order mediation when there is a dispute as to the custody of a child. It also conforms the present law to recommend drafting style.

Your Committee heard testimony from the Family Court and the Office of the Corporation Counsel in support of this bill. Adversarial proceedings are damaging to the family, particularly the children. Your Committee finds that mediation is a positive alternative to resolving custody disputes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1898-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 370-84 Judiciary on S.B. No. 2193-84

The purpose of this bill is to make numerous changes in Chapter 804, Hawaii Revised Statutes, relating to bailable offenses, conditions of release on bail, conditions for establishing the amount of bail, and various procedural requirements.

In January, 1983, the State Intake Service Centers submitted its study requested by the House of Representatives, State of Hawaii, by House Resolution No. 64, "Requesting the Development of Proposed Bail Reform Legislation." In that study, various criminal justice agencies were contacted for their input regarding Chapter 804, Hawaii Revised Statutes, relating to bail. The study concludes that Hawaii's present system for administering bail is adequate and that present law only requires some modifications which would bring the system to its highest level of effectiveness. For example, some substantive changes could strengthen the administrative aspects of the bail system by establishing clearer criteria and mechanisms for the operation of the system.

S.B. 2193-84 essentially implements the recommendations made by the State Intake Service Centers and addresses the following major areas which can significantly improve the State's system for bail:

1. Strengthening the power of the court by adding more restrictive conditions for release on bail and penalties for violations of such conditions.
2. Establishing review procedures for persons who continue to be detained because of their inability to meet conditions of release.
3. Establishing procedures by which the court can require the arrest or appearance, or both, of an accused because of changed circumstances or non-compliance with conditions of release.
4. Facilitating proof of violations of conditions of release by eliminating the requirement that the prosecuting attorney must prove than an accused willfully violated such conditions.
5. Establishing criteria for setting the amount of bail to be imposed.
6. Establishing additional qualifications for sureties other than monetary sufficiency.
7. Establishing procedures for the deposit and return of bail security.

8. Establishing provisions regarding various types of security for bail.
9. Establishing procedures for accepting guaranteed arrest bond certificates as bail.
10. Establishing provisions regarding forfeiture of bail for failure to appear or to comply with conditions of release.
11. Providing penalties for violations of the provisions of Chapter 804, Hawaii Revised Statutes.

Your Committee received testimony regarding S.B. 2193-84 from the State Intake Service Centers, the Department of the Prosecuting Attorney, City and County of Honolulu, the Judiciary, State of Hawaii, and the American Civil Liberties Union of Hawaii. Your Committee also consider the study submitted by the State Intake Services Center regarding proposed bail reform legislation for the State.

Your Committee finds that Section 804-3, Hawaii Revised Statutes, regarding bailable offenses presents two issues for discussion:

1. A recent Hawaii Supreme Court decision in the case of Huihui v. Edwin Shimoda declared Section 804-3(3), Hawaii Revised Statutes, unconstitutional because it mandates that "no bail shall be allowed". The Supreme Court held that this section was contrary to Article I, Section 12 of the Hawaii State Constitution which provides that "the court may dispense with bail if reasonably satisfied that the defendant or witness will appear when directed, except for a defendant charged with an offense punishable by life imprisonment". It was noted that section 804-3(3) denies the trial judge discretion regarding the granting of bail and also reflects the attitude that an "entire class of accused persons is not entitled to bail by reason of their presumed dangerousness, without affording these persons a fair opportunity to rebut such presumptions."

Your Committee finds that S.B. No. 2193-84, as received by your Committee, remedies the constitutional problems raised by Huihui v. Shimoda by substituting the permissive language of "may" for the existing word "shall".

2. Section 804-3(b), Hawaii Revised Statutes, includes a standard for proof for the denial of bail. Specifically, the section requires that "the proof is evident and the presumption great". Your Committee received testimony that such language is vague and suggests that an accused is or may be judged prior to trial on the case against him. In order to avoid these problems of vagueness and to insure that an accused is treated as innocent until proven guilty, your Committee has amended the bill to eliminate existing language regarding this standard for proof.

Your Committee further finds that the rights and safety of victims and the public justify a further amendment to the bill which makes it easier to impose conditions of release. Specifically, your Committee has amended section 804-7.1 by omitting the language "commit a serious crime" and inserting the language of "engage in illegal activity". Such a change allows the prosecuting attorney to seek conditions of release in cases such as prostitution which may not be considered serious crimes, but which involves illegal activities. The amendment specifically allows the court to impose conditions of release in a greater number of cases by making more lenient that which must be proved by the prosecution.

Your Committee further amended the bill by making nonsubstantive changes for purposes of clarity and conformity with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2193-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2193-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter and George.

The purpose of this bill is to require the Legislature to include as part of the bill, the exact question that is to be printed on the ballot on any proposed constitutional amendment. It also mandates that the question be phrased so that it can be answered either "yes" or "no".

Testimony by the Association of Clerks and Election Officers of Hawaii indicated that their offices currently determine the wording of the ballot question. Your Committee finds that the question should more appropriately be framed by the proponents of amendments.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee is in accord with the intent and purpose of S.B. No. 2203-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2203-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 372-84 Judiciary on S.B. No. 2108-84

The purpose of this bill is to: 1) add the definition of "antique firearm," 2) to extend the time allowed for registration of a firearm brought into the State from forty-eight hours to five days after arrival of the person or the firearm, 3) to exempt antique firearms from the requirements to register the firearm upon arrival in the State of the person or firearm, and 4) omit the requirement that ammunition be registered.

Your Committee made the following amendments to the bill:

- 1) Removed the definition of and reference to the term "antique firearm." Although testimony by the Honolulu Police Department revealed that there may have been few instances of crimes committed with "antique firearms" in recent years, the definition herein would have exempted from registration and permit requirements those firearms or their replicas which could use conventional ammunition.
- 2) Exempted from registration and permit requirements those devices designed to fire loose black powder and other nonserviceable firearms whether acquired locally or from out-of-state. Presently, such devices which are acquired locally are exempted from registration requirements.
- 3) Retained the 48-hour time limit in which to register all other firearms entering the state and struck the proposed extension of the time limit to five days.
- 4) Made non-substantive changes and reordered certain paragraphs to clarify the language of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2108-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2108-84, S.D. 2.

Signed by all members of the Committee except Senators Carpenter and George.

SCRep. 373-84 Judiciary on S.B. No. 1582-84

The purpose of this bill is to clarify and change: 1) the penalties for an offense of driving under the influence occurring within five years of a prior conviction, and 2) evidentiary rules for proof of intoxication.

Specifically, the bill:

1. Provides for an absolute prohibition against operating a motor vehicle during license suspension in the case of a second conviction within five years for driving under the influence of intoxicating liquor. This prohibition conforms with the absolute prohibition imposed for a first conviction and will eliminate judicial confusion in the sentencing of repeat offenders.

2. Clarifies that "ten days" of community service work means "80 hours" of

community service work. This amendment conforms with language relating to community service work for a first conviction.

3. Provides for an additional sanction of a fine in the amount of \$500-\$1,000 in the case of a second conviction within five years for driving under the influence of intoxicating liquor. This additional penalty brings the State's law within federal guidelines and will enable the State to qualify for a basic and supplemental federal grant.

4. Changes Sections 291-4 and 291-5 of the Hawaii Revised Statutes to allow the alcohol concentration to be measured by a test of either a person's blood or breath. Present law makes reference only to a person's blood alcohol concentration.

5. Specifies that if a person's blood alcohol is in excess of five-hundredths percent, but less than ten-hundredths percent, the person may still be charged with driving under the influence in light of other competent evidence.

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. 1582-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 158284, S.D. 2.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 374-84 Judiciary on S.B. No. 1583-84

The purpose of this bill is to strengthen statutes concerning alcohol and highway safety.

The bill as it came to the Committee: 1) allows a police officer to decide which test for alcohol concentration shall be given to an arrested person; 2) increases the penalties for refusal to take the test selected by the police officer, including the immediate surrender of the arrested person's license, permit, or out-of-state license; 3) provides for the issuance of a temporary license, upon surrender of the driver's license, permit, or out-of-state driver's license; 4) requires that hearings on affidavits submitted under the implied consent laws shall be held within 15 days from date of receipt from the district court; and 5) includes mopeds within the scope of the implied consent statutes.

Your Committee was very concerned about the revocation of the driver's license, permit, or out of State driver's license before a hearing on the driver's refusal to submit to testing. Although the bill provides for the issuance of a temporary seven day license, there will be a time period between the expiration of the temporary seven-day license and the hearing, which according to the bill must be held within 15 days after the submission of the arresting police officer's affidavit regarding the incident. During this time, the arrested person will not be able to drive, with the very real and possible consequence that the person may lose his or her job or be unable to receive necessary medical treatment. Your Committee finds that this may be an unconstitutional deprivation. Therefore it amended the bill to delete the provisions regarding the surrender of the person's license, permit, or out-of-state license and the issuance of a temporary license. It also deleted the provision regarding the extension of time a person must wait for the issuance of a license if the person was determined to be a State resident who was driving without a license.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1583-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1583-84, S.D. 2.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 375-84 Judiciary on S.B. No. 2207-84

The purpose of this bill is to provide greater control over the use of the absentee ballot.

Under prior law, an applicant for an absentee ballot had to specify one of several reasons as to why a request to cast an absentee ballot was being made. One of the reasons listed was a conflicting religious belief. Cognizant that

requiring a public declaration of religious belief in order to vote absentee presented possible violation of constitutional protections, the Legislature in 1981 eliminated the requirement that an absentee voter indicate a reason for requesting such an absentee ballot.

This bill provides that a voter desiring to vote absentee have a reason for so doing without requiring the voter to specify which particular reason. Unlike the prior law, the absentee voter need only affirm generally to any of the listed reasons in the bill. The bill also prevents to an extent, administrative problems caused by elections allowing the unrestricted use of the absentee ballot.

Your Committee has made technical changes to the bill which have no substantive effect.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2207-84 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2207-84, S.D. 1, and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 376-84 Judiciary on S.B. No. 2205-84

The purpose of this bill is to require the Chief Election Officer, upon implementation of a new apportionment plan, to adjust the departmental school board districts to conform to the new plan.

Under the present law, department school districts are defined according to the representative districts of the districting scheme under which the 1980 elections were held. Thus, after each new reapportionment of the state, the law would have to be updated to reflect the current scheme. This bill would obviate this necessity by allowing the Lieutenant Governor to designate the representative districts that comprise the departmental school districts.

Testimony from the Lieutenant Governor pointed out that the reference in the bill to departmental school board districts is incorrect inasmuch as there are departmental school districts and school board districts but no departmental school board districts. Accordingly, your Committee has made the necessary revisions of terminology in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2205-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2205-84, S.D. 2.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 377-84 Judiciary on S.B. No. 1567-84

The purpose of this bill is to allow the Department of Social Services and Housing to promulgate rules and regulations to make legal services available to persons not receiving Aid to Families with Dependent Children on paternity and child support matters and to charge a fee for these services.

Testimony by the Department of Social Services and Housing (DSSH) and the Department of the Corporation Counsel of the City and County of Honolulu indicated that these legal services are currently being provided, pursuant to Federal statutes, but at no charge. However, recent Federal regulations permit either a flat dollar fee not to exceed \$20.00 or a fee schedule based upon income. Twenty-four states presently charge a flat fee and twelve others provide for the recovery of costs incurred in excess thereof which is also allowed under Federal regulations. The collection of fees will also help to reduce the administrative costs of DSSH.

Your Committee amended the bill to prohibit DSSH from mandating a fee from persons whose income and resources would qualify them for financial assistance but are not receiving such assistance. It believes that the DSSH's requirement of payment of fees from these people may raise possible equal protection claim because DSSH will not require a fee from people receiving aid to families with dependent children.

Your Committee also amended the bill to revise \$584-9, \$576-25, and \$580-15 to

make these sections consistent with the proposed amendment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1567-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1567-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 378-84 Judiciary on S.B. No. 1885-84

The purpose of this bill is to provide native Hawaiian individuals and organizations with the right to sue in the circuit courts of the State regarding the native Hawaiian land trust under Article XII of the State Constitution, implementing section 4 and 5(f) of the Admission Act.

The report of the Federal-State Task Force on the Hawaiian Homes Commission Act, dated August, 1983, recommends that the Legislature resolve uncertainties regarding the right of native Hawaiians to sue in State courts for breaches of trust in the administration of Hawaiian Home lands. A similar recommendation was made with reference to Congress enacting legislation to enable beneficiaries to sue in Federal court.

Your Committee finds that the State of Hawaii is the ultimate trustee under the Admission Act, since the United States granted title to certain public lands and "available lands", under the Hawaiian Homes Commission Act, 1920, as amended, to the State to be held in trust for various purposes. This bill would provide the means and forum for native Hawaiian beneficiaries to resolve disputes regarding these lands with the State.

Your Committee has amended the bill to:

- 1) Clarify that the right to sue is afforded to actions to resolve any controversy relating to land trusts established by the Hawaiian Homes Commission Act, and the land trusts established by the Act of March 18, 1959;
- 2) Specify that the state circuit courts shall have original jurisdiction of all actions brought under this section; and
- 3) Specify that the Office of Hawaiian Affairs is included in the definition of "native Hawaiian organizations";
- 4) Require the exhaustion of administrative remedies before filing suit;
- 5) Clarify the purpose section; and
- 6) Make technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1885-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1885-84, S.D. 2.

Signed by all members of the Committee except Senators Carpenter and George.

SCRep. 379-84 Transportation on Gov. Msg. No. 185

Recommending that the Senate advise and consent to the nomination of KEITH I. ODA to the Commission on Transportation, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 380-84 (Majority) Ways and Means on Gov. Msg. No. 106

Recommending that the Senate advise and consent to the nominations of THOMAS M. FOLEY, CAROLE ANN GIBBS, HIDETO KONO, ALBERT S. NISHIMURA, RUSSELL OKATA, CHRISTOPHER G. PABLO and RICHARD L. POLLOCK, Ph.D., to the Tax Review Commission, for terms to expire upon completion of duties.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 381-84 Ways and Means on Gov. Msg. No. 107

Recommending that the Senate advise and consent to the nomination of KAZUO SENDA to the Board of Taxation Review, Fourth Taxation District, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 382-84 Ways and Means on Gov. Msg. No. 186

Recommending that the Senate advise and consent to the nomination of DOUGLAS BEATTY to the Board of Taxation Review, Third Taxation District, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 383-84 Ways and Means on S.B. No. 1846-84

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 has substantially amended the bill to provide appropriations for specific capital improvement projects throughout the State. Your Committee believes that the projects contained in the bill reflect the legislature's continued commitment to projects which reflect the needs of the people of the State.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1846-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1846-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 384-84 Ways and Means on S.B. No. 1787-84

The purpose of this bill is to authorize the issuance of general obligation bonds and to declare findings that the total amount of principal and interest estimated for such bonds and all bonds authorized but unissued and calculated for all bonds issued and outstanding will not cause the debt limit to be exceeded at the time of issuance.

This bill is intended to meet the requirement of Article VII, section 13, of the Constitution of the State of Hawaii. The constitutional provision requires the legislature to include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the debt limit will not be exceeded upon the issuance of bonds authorized by the law and in the past.

Amounts in the bill have been left blank since the precise data or best estimates are not known at this time. It is the intention of your Committee that the Senate pass the bill and fill in the amounts later in the session when they become known.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1787-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 385-84 Agriculture on H.B. No. 1422

The purpose of this bill is to require a maximum shelf life of ten days for

processed milk intended for sale by retail or wholesale markets.

Currently, there is no maximum period prescribed by statute for the shelf life of processed milk intended for sale. Individual processors are permitted to set their own "pull dates" for processed milk, and at present, the pull dates vary from ten to twelve days.

Your Committee was presented substantial testimony and evidence in the form of data and studies indicating that the establishment of a mandatory ten-day "shelf life" would provide a more flavorful and nutritious product to the consumers. The importance of milk as a nutritious food has long been recognized, milk is an excellent source of high quality protein. Milk is also a good source of minerals, most notable calcium and phosphorus, and vitamins, chiefly some of the B complex and vitamin D. Milk is also a highly perishable commodity. Due to its importance in the diets of young children it is necessary to ensure that milk be wholesome, nutritious and safe. Milk consumption has been shown to decrease when the consumer drinks unpalatable milk. In a child this could lead to resistance to milk at a crucial period.

The evidence presented to your Committee shows that two types of bacteria flourish in milk - mesophilic and psychrotrophic. Mesophilic bacteria can be controlled by low temperatures, whereas psychrotrophic bacteria is tolerant of cold temperatures and is controlled by pasteurization. It is virtually impossible, though, to process milk without post-pasteurization contamination with these organisms. Also certain enzymes that exist in the psychrotrophic bacteria can survive pasteurization even when the bacteria themselves are killed. The significance of this is that the enzymes that may come from high psychrotrophic counts in raw milk are found to produce objectionable bitter flavors in the pasteurized milk during extended storage up to 2 weeks. The psychrotrophs from post pasteurization contamination or those that survive pasteurization can multiply at refrigeration temperature and produce fruity, fermented and unclean flavors, even when present in low numbers. Therefore, good evidence indicates that even under proper refrigeration, post pasteurization contaminating psychrophilic microbes proliferate in milk and cause deterioration of quality.

Your Committee received a number of studies indicating that a positive relationship between increasing bacterial numbers and loss of flavor quality exists. The evidence also shows that the quality flavor of milk is affected by biological and chemical reactions. Milk is very susceptible to an irradiated flavor defect caused by a combination of photo degradation of some protein component and lipid oxidation. Milk in paper cartons is more resistant to this defect because cartons transmit less light. But even milk in cartons over an extended period will develop the off-flavor.

Milk is a delicately flavored food that is susceptible to microorganisms as well as chemical and biological changes. When consumers purchase milk that has undesirable flavors they are less likely to continue to drink it. This is particularly true with children. As a result the overall level of nutrition tends to suffer. By reducing per capita consumption of milk, we are creating a situation where the human diet, particularly youth, is deficient in calcium. In later life, this will appear as osteoporosis.

Your Committee acknowledges that the consumer cannot test milk quality before purchase, nor does the consumer know how much time has elapsed since bottling. Milk differs from other perishable agricultural products in that the normal tests of "freshness", visual, odor and feel cannot be applied as in the case of meats, fruits, and vegetables. The only apparent indicator of milk quality is the time remaining before the code date expires.

Upon researching statutes that presently exist in other states and reviewing the recommendations proposed to this Committee, your Committee found a range from 7 to 15 days. The majority of the recommendations fall in the range of 10 to 12 days. The recently enacted state statutes fall in the 10 to 12 days with some states having a 10 day limit with an option to extend to 12 days based on scientific evidence.

This bill ensures that consumers will receive flavorful and nutritious milk by:

- (1) Establishing the maximum shelf life at ten days;
- (2) Requiring milk to be maintained at a temperature no greater than 45°

Fahrenheit;

- (3) Requiring uniform labeling; and
- (4) Permitting the Director of Health to lengthen or shorten the "shelf life" based on scientific data, but in no event greater than twelve days.

The bill also exempts milk that has been sterilized, ultra-pasteurized, cultured, or packaged in hermetically sealed containers from the provisions of this bill.

Your Committee has amended the bill by adding a penalty provision to provide a fine of not less than five dollars but not more than \$100 for a violation of this section or rules established by the Director of Health.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1422, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1422, H.D. 1, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Solomon, Fernandes Salling and Toguchi.

SCRep. 386-84 Agriculture on Gov. Msg. No. 93

Recommending that the Senate advise and consent to the nomination of RONALD M. TERRY to the Governor's Agricultural Coordinating Committee, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 387-84 Education on S.R. No. 53

The purpose of this resolution is to support the findings and recommendations of the Native Hawaiian Educational Assessment Project (NHEAP) and to encourage the appropriate state and federal agencies to utilize the NHEAP study to develop a more effective educational program for Native Hawaiians.

The NHEAP was designed on the premise that education, beginning particularly with the very young, is the best and most important means for changing and improving an individual's economic and social self-sufficiency. Of a State population of 930,200 approximately 175,400 or 18.9 per cent are Hawaiian. Of the over 162,000 students in Hawaii's public schools over 34,000 or 21.1 per cent are Hawaiian youngsters. Of the public schools in the State approximately 25 have enrollments of 40 per cent or more native Hawaiian and Hawaiian youngsters. The number of Hawaiian students in stanines 1 - 3 (equivalent to 1 - 22 percentile range) is approximately 12,000 or 35 per cent of the Hawaiians in public schools. This does not include youngsters from the island of Niihau who were not tested. Approximately 23 per cent of the youngsters in the nation would fall in stanines 1 - 3. In Hawaii the number of Hawaiians considered learning disabled is 1,236 or 76.5 per cent of the total identified in the public schools.

The NHEAP completed in March of 1983 resulted in a study which found that:

1. Generally, Hawaiian students score lower than national norms on standardized achievement tests;
2. Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs;
3. Hawaiian students have educational needs which are related to their unique cultural situations;
4. Existing Native American educational programs did not provide a ready match for Native Hawaiians needs within the scope of this study; and
5. Educational research and development projects in Hawaii and on the mainland have identified principles of effective schooling which can be applied to the unique needs of Native Hawaiian students.

Your Committee concurs with the findings of the NHEAP and strongly recommends that the Legislature express its support of the NHEAP by:

1. Urging Congress to amend the Indian Education Act, as well as other federal Native American and education laws to include Native Hawaiians;
2. Encouraging the appropriate state and federal agencies to utilize the NHEAP study to develop a more effective Native Hawaiian educational program; and
3. Conveying its support of NHEAP.

Your Committee on Education concurs with the intent and purpose of S.R. No. 53 and recommends its adoption.

Signed by all members of the Committee except Senators Toguchi, Abercrombie, Aki, Kuroda and Ajifu.

SCRep. 388-84 Education on S.C.R. No. 44

The purpose of this concurrent resolution is to support the findings and recommendations of the Native Hawaiian Educational Assessment Project (NHEAP) and to encourage the appropriate state and federal agencies to utilize the NHEAP study to develop a more effective educational program for Native Hawaiians.

The NHEAP was designed on the premise that education, beginning particularly with the very young, is the best and most important means for changing and improving an individual's economic and social self-sufficiency. Of a State population of 930,200 approximately 175,400 or 18.9 per cent are Hawaiian. Of the over 162,000 students in Hawaii's public schools over 34,000 or 21.1 per cent are Hawaiian youngsters. Of the public schools in the State approximately 25 have enrollments of 40 per cent or more native Hawaiian and Hawaiian youngsters. The number of Hawaiian students in stanines 1 - 3 (equivalent to 1 - 22 percentile range) is approximately 12,000 or 35 per cent of the Hawaiians in public schools. This does not include youngsters from the island of Niihau who were not tested. Approximately 23 per cent of the youngsters in the nation would fall in stanines 1 - 3. In Hawaii the number of Hawaiians considered learning disabled is 1,236 or 76.5 per cent of the total identified in the public schools.

The NHEAP completed in March of 1983 resulted in a study which found that:

1. Generally, Hawaiian students score lower than national norms on standardized achievement tests;
2. Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs;
3. Hawaiian students have educational needs which are related to their unique cultural situations;
4. Existing Native American educational programs did not provide a ready match for Native Hawaiians needs within the scope of this study; and
5. Educational research and development projects in Hawaii and on the mainland have identified principles of effective schooling which can be applied to the unique needs of Native Hawaiian students.

Your Committee concurs with the findings of the NHEAP and strongly recommends that the Legislature express its support of the NHEAP by:

1. Urging Congress to amend the Indian Education Act, as well as other federal Native American and education laws to include Native Hawaiians;
2. Encouraging the appropriate state and federal agencies to utilize the NHEAP study to develop a more effective Native Hawaiian educational program; and
3. Conveying its support of NHEAP.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 44 and recommends its adoption.

Signed by all members of the Committee except Senators Toguchi, Abercrombie, Aki, Kuroda and Ajifu.

SCRep. 389-84 (Majority) Consumer Protection and Commerce on H.B. No. 654

The purpose of this bill is to repeal Section 403-38.5, Hawaii Revised Statutes, and to add a new section to chapter 403 which would establish a filing requirement for individuals and corporate entities seeking a controlling interest in Hawaii banks.

Currently, Section 403-38.5, Hawaii Revised Statutes, provides that no more than 25 per cent of the total voting stock of banks regulated under chapter 403 shall be held or acquired by foreign corporations or nonresident aliens, unless prior written approval is obtained from the Bank Examiner. The proposed language replaces 403-38.5, Hawaii Revised Statutes, with a requirement that any person seeking to acquire control of a section 403, Hawaii Revised Statutes, bank or holding company must provide 60 days' prior written notice to the State Bank Examiner.

To understand the merits of this proposal, it is important to consider the change in the Bank Control Act of 1978, Title VI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (hereinafter referred to as the "Act.")

The Act gives the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency the authority to disapprove changes in control of insured banks and bank holding companies. Similar to Section 403-38.5(b), Hawaii Revised Statutes, the "Act" defines control as the power, directly or indirectly, to vote 25 per cent or more of any class of voting securities or to direct the management or policies of an insured bank. 12 U.S.C.S. §1817(j)(8)(B). The Act goes much further than Section 403-38.5, Hawaii Revised Statutes, in that it requires extensive written notice to be filed with the appropriate Federal banking agency. More importantly, the Act, unlike section 403-38.5, Hawaii Revised Statutes, lists the factors and standards that the Federal banking agencies are to consider in determining whether a proposed acquisition should be disapproved. These factors address the concerns expressed in section 403-38.5, Hawaii Revised Statutes, in that they require consideration of financial condition, competence, experience, and integrity of the acquiring party, as well as the effect of the acquisition on competition.

Your Committee is in agreement that Section 403-38.5, Hawaii Revised Statutes, should be repealed since the State is regulating an area already fully and effectively regulated by the Federal government. The Federal government has the resources to more adequately regulate this area. The State's interest is also adequately protected by the notification of the State Bank Examiner in the existing Federal statute and the proposed legislation. Should the Bank Examiner have objections to the potential acquiring party, those objections can be made to the Federal regulating authority. Additionally, the application of Section 403-38.5, Hawaii Revised Statutes, may result in a conflict between the State and Federal statute concluding in the State statute being pre-empted by the Federal statute.

Upon further consideration, your Committee has amended the bill to add provisions to afford all shareholders of Hawaii corporations (1) registered under the Securities Exchange Act of 1934, (2) with five per cent or more of its voting stock beneficially owned by Hawaii residents, (3) having its principal place of business or principal executive offices within this State, and (4) with substantial assets within this State, an increased level of protection from the harmful and negative effects that may occur subsequent to an acquisition by a shareholder of a controlling interest in the corporation by (A) providing the shareholders with an opportunity to review and vote on certain post acquisition transactions and (B) ensuring that each shareholder will receive a fair price for his or her stock if an offer is made to the remaining shareholders. This bill is not intended to prevent or preclude tender offers or acquisition of shares, but to afford protection to Hawaii corporations and Hawaii shareholders.

In 1982 the United States Supreme Court in the James Edgar v. MITE Corporation and MITE Holdings, Inc., 73 L Ed 2d 269, invalidated portions of an Illinois business takeover statute. MITE held that State regulation of tender offers taking place outside of the State are in violation of the Commerce Clause. The Court stated that while protection of local investors is a legitimate state objective, the State has no legitimate interest in protecting non-resident shareholders. The case had far reaching effects for states which required pre-acquisition determinations by the State government. While Hawaii's statutes had not been invalidated there is a likelihood that should a challenge be made to our existing provisions as well as those of the Hawaii Business Corporation Act, scheduled to take effect on July 1, 1986, Hawaii may find itself without sufficient protection for the shareholders of our Hawaii corporations. The amendments to this bill address three different but equally important situations in which a shareholder's interest in a corporation may be jeopardized by post acquisition maneuvering of a takeover bidder.

The first approach addresses what is known in the business world as the "creeping acquisition." This is a situation in which a shareholder interested in obtaining control of a corporation gradually and methodically increases his holdings in the corporation over a period of time, generally, unbeknownst to the other shareholders, with the intent to acquire enough voting power necessary to wage a proxy contest for control of the corporation.

The second approach addresses a situation wherein a shareholder attempts to influence the corporation to enter into a business combination with either himself or a related entity in order that he or she may realize profits on the transfer or sale of the assets of the corporation.

The third approach is designed to handle what is known as "looting." This is a situation which involves a shareholder influencing the corporation to sell its principal assets to a third party in an attempt to realize short term profits and gains.

Your Committee has reviewed the above proposals and approaches and recognizes the necessity of providing Hawaii corporations and its shareholders with protection against such threats.

Your Committee finds that this bill will (1) increase the level of protection to all shareholders of Hawaii corporations from the possible negative effects of a takeover attempt, (2) provide stability to the operation, management and value of a target company, (3) assure that all shareholders of publicly traded Hawaii corporations will receive fair and equitable treatment, (4) encourage the participation of shareholders in reviewing and approving certain post-acquisition transactions, and (5) will not present a restriction upon or preclude tender offers.

Your Committee has also provided further language to ensure that these provisions will be incorporated into the Business Corporation Act scheduled to take effect in 1986, and 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. 654, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 654, H.D. 1, 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 Senator Kuroda.
Senator Kawasaki did not concur.

SCRep. 390-84 Health on Gov. Msg. No. 97

Recommending that the Senate advise and consent to the nomination of LETITIA N. UYEHARA to the office of Director of Environmental Quality Control, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 391-84 Ways and Means on H.B. No. 212

The purpose of this bill is to appropriate funds for the cost items of the

collective bargaining agreements with exclusive representatives of state employees.

The governor has provided the amounts necessary to fund the cost items for employees of the executive branch. Your Committee has inserted the amounts in the bill. The amounts include funding of a differential for unit 10 employees of the Hawaii State Hospital who are assigned responsibility for closed intensive supervision unit (CISU) patients in non-CISU settings.

The governor also has indicated that the judiciary has sufficient appropriations from the previously budgeted increments to fund its cost items. Consequently, the judiciary requires no additional funds, but requires authorization to use those appropriations for the cost items. Your Committee has provided the necessary authorization.

Since the first pay increase is due on April 1, 1984, the governor has recommended immediate passage of this bill in accordance with Article VII, section 9, of the Constitution of the State of Hawaii. Your Committee concurs with the governor and has included a statement of the recommendation in the bill and a purpose section.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 212, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 212, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 392-84 Ways and Means on H.B. No. 223

The purpose of this bill is to fund for the fiscal biennium 1983-1985 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded from collective bargaining.

Chapter 89C, Hawaii Revised Statutes, provides personnel excluded from collective bargaining with salary adjustments equivalent to those negotiated for their included counterparts. This bill provides funding for the adjustments. The governor has recommended immediate passage of the bill in accordance with Article VII, section 9, of the Constitution of the State of Hawaii because the first pay raises for included employees are due on April 1, 1984. Your Committee concurs with the governor and has included in the bill a statement of the recommendation and purpose section.

The governor also has provided the amounts necessary for the salary adjustments for excluded employees of the executive branch. The amounts have been inserted in the bill.

The judiciary does not require additional funding for salary adjustments of its employees. Appropriations previously budgeted for increments are sufficient to meet the costs of the adjustments. Your Committee has included in the bill the authorization necessary for the use of the previous appropriations for the adjustments.

Amounts necessary for salary adjustments of employees of the legislative reference bureau and ethics commission also have been inserted. The offices of the legislative auditor and ombudsman have notified your Committee that they do not require further appropriations. Thus, reference to the offices have been deleted from this bill.

Your Committee has amended the bill further by appropriating amounts necessary for salary adjustments of officers and employees of the office of Hawaiian affairs. These new provisions are in part V of the bill, as amended.

Your Committee also has designated sections 10, 11, and 12 of the bill, as amended, as part VI since those sections apply to the appropriations made in all other parts of the bill and to conform to the organizational style. In addition, technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 223, H.D. 1, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 223, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 393-84 Consumer Protection and Commerce on Gov. Msg. No. 230

Recommending that the Senate advise and consent to the nomination of RUSSEL S. NAGATA as Director of Commerce and Consumer Affairs, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 394-84 Consumer Protection and Commerce on H.B. No. 847

The purpose of this bill was to amend Section 294-35.5, Hawaii Revised Statutes, to provide that insurer fees assessed for the purpose of driver education be increased from \$1.00 to \$1.25 per insurance policy on each insured vehicle and be allocated forty per cent to the driver education program operated by the Judiciary and sixty per cent to the Department of Education for high school driver education.

Upon receiving testimony by the Judiciary, Department of Education, Hawaii Insurers Council and the Department of Commerce and Consumer Affairs, your Committee amended the bill, to:

1. Increase the drivers' education fund underwriters' fee assessed and levied upon each insurer and self-insurer of motor vehicles to \$1.50.

2. Provide that the allocation of the underwriters' fees deposited into a special drivers' education fund account remain at the fifty-fifty ratio presently set forth in Section 294-35.5(b), Hawaii Revised Statutes.

Your Committee further finds that the driver education program has proven to be of great benefit to the motoring public and therefore, it is worthy of being supported.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 847, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 847, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 395-84 Transportation on H.B. No. 2340-84

The purpose of this bill is to clarify existing law relating to the provision of identification upon lawful order of any police officer when a person is detained for a violation of the Statewide Traffic Code.

Under present law, any police officer, in the course and scope of his duties, may order a person to provide his name, address, and any proof of identification. In a recent Hawaii Supreme Court case, State v. Dang, Sup. Ct. No. 8964, the defendant appealed on several grounds, one of which was that the present statutory language of Section 291C-172, Hawaii Revised Statutes, could be construed so that the word "and" takes on a strictly conjunctive denotation. This bill revises statutory language to clarify that a person is required to provide his or her name and address, "or" any proof thereof, "or both", as may be requested by a police officer.

Your Committee heard favorable testimony from the Honolulu Police Department stating problems with the current law. Your Committee finds that this bill will clarify existing law and aid police in conducting an effective enforcement program.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2340-84, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 396-84 Transportation on H.B. No. 1629-84

The purpose of this bill is to amend Part VII of Chapter 286, Hawaii Revised Statutes, by adding two new sections which authorize and set minimum standards for the establishment of intoxication control roadblock programs.

The bill provides that:

- (1) Police departments of each county are authorized to establish intoxication control roadblock programs;
- (2) Any county establishing an intoxication control roadblock program shall, by rules, specify procedures to be followed, subject to minimum standards set by statute;
- (3) Either all motor vehicles approaching a roadblock shall be stopped, or vehicles shall be stopped in a specified random numerical sequence;
- (4) Roadblocks shall be located at fixed points, rather than be roving in nature;
- (5) Minimum safety precautions shall be provided at every roadblock; and
- (6) Roadblocks shall be conducted to assure speedy compliance and a minimum of inconvenience to traffic.

Your Committee heard favorable testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu, and the City and County of Honolulu Police Department. Your Committee, after hearing the testimony, has amended the bill by:

- (1) Deleting the word "random" from the requirement relating to which motor vehicles shall be stopped at roadblocks.
- (2) Adding a new section to the bill which:
 - (a) provides for mandatory permanent revocation of drivers license for any person convicted of manslaughter from the use of a motor vehicle,
 - (b) requires the surrender of a license issued to an unlicensed driver arrested for driving under the influence of intoxicating liquor where the license was issued during the time between the arrest and any conviction, and
 - (c) increases the age at which a person may apply for a driver's license from seventeen to eighteen years of age;
- (3) Adding a new section to the bill which requires mandatory revocation of a license upon conviction for negligent homicide or inattention to driving when the driver was under the influence of intoxicating liquor and caused injury to another;
- (4) Adding a new section to the bill which:
 - (a) amends the point penalty system to include additional points for multiple convictions for driving under the influence of intoxicating liquor,
 - (b) amends the point penalty system to increase the minimum amount of points to be assessed for various traffic violations,
 - (c) increases the time period during which penalty points may accrue,
 - (d) provides for appeal from a district court to the intermediate court of appeals in cases involving the point penalty system.
 - (e) changes the language of the point penalty system such that the court may assess points even though a traffic violation was due to the size or nature of the vehicle or the necessity of the driver following a specific route or schedule in the course of his

employment. Under present law, the court has no discretion in this regard and was mandated not to assess any points in such cases, and

- (f) increases the amount of the fine which may be assessed by the court for a person who fails to report for a review of his driving record or fails to attend a driver re-training course ordered as a result of a court review of his record. Previously, the law provided for a fine of "not more than \$100". This amendment provides for a fine of "not less than \$100";
- (5) Adding a new section to the bill which amends the implied consent law to include mopeds;
- (6) Adding a new section to the bill which grants immunity from civil liability to physicians, licensed laboratory technicians or registered nurses who withdraw blood for blood alcohol tests at the request of a police officer;
- (7) Adding a new section to the bill which provides for severability; and
- (8) Adding a new section to the bill which provides that Sections 2 and 8 of the bill shall take effect upon its approval and Sections 3, 4, 5, 6, and 7 of the bill shall take effect on July 1, 1984.
- ((9) Renumbering the sections of the bill to conform with the amendments made to the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1629-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1629-84, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 397-84 Transportation on H.B. No. 1828-84

The purposes of this bill are to clarify the definition of "special facilities", change the maximum amount of special facility revenue bonds that can be issued from \$20,000,000 to \$50,000,000, and extend the issuance date from June 30, 1983 to June 30, 1987.

Currently, the definition of "special facility" in Section 266-51, Hawaii Revised Statutes, is not clear as to whether the processing and canning of fish and fish products falls within the definition. This bill would clarify the statute by specifically including those activities within the scope of the definition.

Your Committee received supporting testimony from the Department of Transportation and finds that extending the expiration date for the issuance of the bonds and increasing the maximum amount of bonds that may be issued to \$50,000,000 is in the best interest of the State.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1828-84, 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. 398-84 Transportation on H.B. No. 2007-84

The purpose of this bill is to help defray the costs of the alcohol abuse rehabilitation program attended by persons convicted for driving under the influence of intoxicating liquor by authorizing the courts to assess a fee of \$50 against persons sentenced to attend the program.

Currently, a person convicted of driving under the influence of intoxicating liquor, as a first offense, or an offense not preceded by a previous conviction within a five-year period, is sentenced to attend an alcohol abuse rehabilitation program. The cost incurred to operate this program is paid by the Judiciary through the Driver Education Training Fund. This bill authorizes the court, at its discretion, to assess the offender a fee of \$50 to be deposited into the

Driver Education Training Fund.

Your Committee received favorable testimony from the Judiciary, State of Hawaii, and agrees that the offender should share in the cost of the alcohol abuse rehabilitation program to provide that person with education and counseling in alcohol abuse. Your Committee further agrees that such education and counseling is in the best interest of the person and the State.

Your Committee has amended the bill by requiring that where a person is sentenced to attend an alcohol abuse rehabilitation program conducted by a non-governmental agency, the \$50 fee will be transmitted to that agency.

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

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2007-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2007-84, H.D. 2, S.D. 1, and be jointly referred to the Committee on Judiciary and the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 399-84 Education on H.B. No. 2407-84

The purpose of this bill is to extend the job-sharing pilot project for librarians for an additional two years and to expand the scope of the project to include library assistants and library technicians.

Act 139, Session Laws of Hawaii, Regular Session 1982, established a voluntary job-sharing pilot project for full-time librarians in the public library system. This project has proven to be successful in two ways. First, it creates a higher degree of employee satisfaction by enabling the participants to pursue both personal and professional goals. Secondly, it allows the State to utilize the talents and resources of two individuals at a cost-savings to the State.

Your Committee finds that, in light of the benefits derived from the job-sharing pilot project for librarians, the project should be extended for two years and expanded to include library assistants and library technicians.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2407-84, 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. 400-84 Education on H.B. No. 1720-84

The purpose of this bill is to make an appropriation of \$200,000 to the 1984 Hawaii Statehood Silver Jubilee.

The Hawaii Statehood Silver Jubilee committee established by Act 4, Special Session 1981, is charged with the responsibility of making all arrangements for the State's official celebration of twenty-five years of statehood. The Legislature appropriated \$10,000 to the committee for the first year (1981-82), \$50,000 for the second year (1982-83), and no funds for the third and most important year (1983-84), the year of the celebration. The original budget for programs in the celebratory year (August 21, 1983-August 21, 1984) was \$525,000. Since funds were not appropriated by the Legislature for the celebratory year, private funding efforts were intensified and the committee's budget was trimmed to \$315,000. This bill seeks an appropriation of \$200,000 to fund programs till August 21, 1984, the celebration's closing date.

The committee's budget includes \$60,000 for travel, meetings in each county, the printing of 37,000 copies of "The Story of Hawaii's Statehood", opening and closing day ceremonies, and miscellaneous costs.

Pledges to the committee include \$70,000 from the business community sectors and \$20,000 from other sources. Royalties and gifts will total about \$15,000. An appropriation of \$200,000 would insure a worthy statehood silver jubilee

observance.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1720-84, 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. 401-84 Transportation on H.B. No. 2142-84

The purpose of this bill is to provide for the assessment of alcohol dependence for persons convicted of second and third offenses of driving while under the influence of alcohol in addition to other penalties under Section 291-4, Hawaii Revised Statutes.

Currently, there are no provisions in law for the evaluation of alcohol dependence for those persons with multiple convictions for driving while under the influence of intoxicating liquor. This bill will require an assessment of alcohol dependence for convicted persons with costs to be paid by the offender.

Your Committee finds that alcoholism is a very serious problem and that protecting the public from those persons who abuse alcohol and drive while under its influence is a major concern. Your Committee also understands that the assessment of alcohol dependence and the need for treatment by a credentialed substance abuse counselor as provided in Section 321-193 and 321-196, Hawaii Revised Statutes, is a viable approach to reduce the incidence of drinking drivers.

Your Committee finds, however, that there may be situations where credentialed substance abuse counselors may not be available, such as on Molokai, and that there may be persons unable to pay the costs of assessment and treatment. Therefore, your Committee has amended the bill by adding that if the court determines that extenuating circumstances exist, assessment, treatment, and applicable costs may be waived at the court's discretion.

Your Committee further amended the bill by changing the requirement for payment of costs by the offender for assessment and treatment to a requirement for payment of costs for assessment or treatment or both.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2142-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2142-84, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 402-84 (Majority) Transportation on H.B. No. 2151-84

The purpose of this bill is to extend the transfer of general excise tax revenues collected on the sale of fuel to the State Highway Fund through fiscal year 1985, designate July 1, 1984 as the date the Director of Taxation is to establish a formula that determines the amount of taxes derived from the sale of fuel, and to appropriate \$100,000 to examine the State's overall transportation policy and recommend appropriate financial strategies.

Under present law there are several permanent sources of revenue for the state highway fund. Primary among these are state vehicle registration fees, state fuel taxes and state vehicle weight taxes. State vehicle registration fees are now set at \$1 per year pursuant to section 249-31, Hawaii Revised Statutes. State fuel taxes are levied at the rate of 8-1/2 cents per gallon by section 243-4, Hawaii Revised Statutes. The state vehicle weight tax, subject to a \$2 minimum, is established by section 249-33, Hawaii Revised Statutes at 45 cents per pound of a vehicle's net weight up to 6,000 pounds; \$27.00 for vehicles weighing from 6,000 pounds to 9,000 pounds, \$31.50 for vehicles weighing from 9,000 pounds to 14,000 pounds, and \$36 for vehicles weighing more than 14,000 pounds.

Because of the decrease in gasoline used per vehicle due to better fuel efficiency and because of decreased usage of automobiles, revenues derived from the state fuel tax have diminished. At the same time, the costs of building and maintaining highways and related facilities and equipment have increased.

In 1981 the State amended section 237-31, Hawaii Revised Statutes, to transfer the four per cent state general excise tax on the retail sale of most liquid fuels in the state from the state general fund to the state highway fund. This temporary transfer is scheduled to end on June 30, 1984.

During the summer of 1983, a State Highway Fund Task Force was formed under the auspices of the State Department of Transportation. After careful study of the problem of maintaining the solvency of the highway fund, the Task Force made the following recommendations: 1) increase the annual vehicle registration fee from \$1 to \$13; 2) phase-in at 1-1/2 cents per gallon increase in the state fuel tax--1 cent per gallon as of July 1, 1984 and an additional 1/2 cent per gallon as of July 1, 1985; and 3) make permanent the diversion from the general fund of the four per cent state general excise tax on the retail sale of most liquid fuels.

Your Committee has carefully studied the recommendations of the State Administration, the House Transportation Committee (H.B. 2151, H.D. 1), the House Finance Committee (H.B. 2151, H.D. 2), and the State Highway Fund Task Force.

The Department of Transportation has also provided your Committee the opportunity to run various funding scenarios on its computer to evaluate the impact of various funding proposals. These scenarios have provided useful information and your Committee has found that access to this information has been extremely helpful in its deliberations.

Based on all the evidence before your Committee, including input from all segments of the transportation industry and from private citizens voicing their concerns, and on the desire of your Committee to establish a fair and equitable way of spreading the costs among highway users, your Committee has made the following amendments to this bill:

1. Section 1 is amended to make permanent the transfer of the funds derived from the state general excise tax on the retail sales of liquid fuel from the state general fund to the state highway fund, and to provide for the annual establishment of a formula to determine the amount of taxes derived from the sale of liquid fuel;
2. Section 2 is deleted and a new section 2 is added to amend Chapter 243-4, Hawaii Revised Statutes, increasing the state tax on each gallon of liquid fuel from 8-1/2 cents to 9-1/2 cents, and increasing the state tax on each gallon of diesel oil from 7-1/2 cents to 8-1/2 cents;
3. Section 3 is deleted and a new section 2 is added to amend Chapter 249-31, Hawaii Revised Statutes, changing the vehicle registration fee from \$1 to \$5;
4. Section 4 is renumbered to section 5.
5. A new section 4 is added to amend section 249-33, Hawaii Revised Statutes, relating to the State vehicle weight tax, increasing the rate from .45 cents to .70 cents a pound according to the net weight of each vehicle as the "net weight" is defined in section 249-1, Hawaii Revised Statutes, and eliminating the various flat rates levied according to categories of minimum and maximum net weights as well as the \$36 maximum tax that can presently be assessed and collected;
6. Section 5 is deleted and a new section 6 is added to provide that sections 1 and 2 of the bill shall take effect on July 1, 1984 and section 3 and 4 shall take effect on September 1, 1984 taking into consideration the staggered vehicle registration system of the counties.
7. Other technical changes having no substantive effect were made.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2151-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2151-84, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kuroda did not concur.

SCRep. 403-84 Transportation on H.B. No. 2486-84

The purpose of this bill is to increase the fees chargeable by county ordinances for certificates of vehicle registration and to expand the permissible uses for such fees from the beautification of county primary highways to the beautification of all county highways.

Under present law, in addition to any other vehicle registration fees set by law, the counties may, by ordinance, establish an additional fee for the registration of a vehicle of not more than 50 cents per certificate of registration. These fees are restricted for the use of beautification of county primary highways. This bill retains the existing statutory scheme under Section 286-51, Hawaii Revised Statutes except it increases the maximum fees charged per certificate to \$1 and expands the use of the fees to include the beautification of all county highways.

Your Committee finds that the present fee is not sufficient to adequately satisfy highway beautification demands as well as meet the need to dispose of abandoned vehicles along county highways.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2486-84, 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.

SCRep. 404-84 Tourism on H.C.R. No. 41

The purpose of this House concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to pursue the acquisition of Makena Big Beach lands by land exchange for suitable state lands as provided in the Hawaii Revised Statutes.

According to testimony by the DLNR, proposed land exchanges between the State and the owners of the Makena Big Beach area have not yet been finalized because lands desired for exchange were either not available or contained other valuable state-owned resources. Your Committee is in agreement that the acquisition of Makena Big Beach by land exchange should remain a high priority in the Department.

Your Committee amended page 2, paragraph 4 of the concurrent resolution as received by adding language to further request the DLNR to initiate and coordinate negotiations with Big Beach landowners and propose methods to facilitate acquisition of this land by exchange, purchase, or any combination thereof. It is the intent of this amendment to clarify the range of appropriate options the DLNR may engage in to accomplish the purpose of this concurrent resolution.

In addition, your Committee amended paragraph 4, line 4 by replacing the word "is" for the word "be" and by inserting "actively" to modify the word "pursue".

Your Committee also amended page 2, paragraph 5, line 1 of the resolution to replace the word "be" with "is".

Your Committee further amended the resolution by inserting a new paragraph requesting that the County of Maui provide monetary assistance for acquiring Makena Big Beach lands. The County of Maui has been supportive of a State park at Makena and your Committee finds that the County of Maui's involvement in the acquisition process would facilitate progress toward settlement with landowners.

Finally, your Committee amended the resolution to require transmittal of copies of the concurrent resolution to the Governor of Hawaii, the Director of the Department of Planning and Economic Development, the Mayor of the County of Maui, and the Maui County Council, in addition to the Chairperson of the Board of Land and Natural Resources.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 41, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 41, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 405-84 Consumer Protection and Commerce on H.B. No. 2254-84

The purpose of this bill is to appropriate \$50,000 out of the general revenues of the State for fiscal year 1984-1985, for the purpose of conducting a comprehensive review of the Hawaii No-Fault insurance law.

Your Committee received supporting testimony from the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA), Hawaii Independent Insurance Agents Association, Hawaii Academy of Plaintiffs' Attorneys, Hawaii Insurers Council, and the Hawaii Business League.

Testimony by the Hawaii Business League expressed concern that the No-Fault Law and its escalating insurance rates have had a detrimental effect on the motorcycle industry. The League contends that there was a forty per cent decline in motorcycle sales, and a corresponding \$3 million loss in profits for dealers over the last four years. The League argues that of the twenty-three states that have some version of the no-fault system, all but three have exempted motorcycles, based on the adverse economic effects that the system creates for the industry. The League also alluded to the recently completed Legislative Reference Bureau (LRB) report on exempting motorcycles from Hawaii's No-Fault Law, and volunteered to further discuss alternative means whereby all parties concerned can be adequately protected in an economical manner. Your Committee recommends that the no-fault study proposed should specifically include consideration of motorcycles since they are an important part of Hawaii's current no-fault scenario, and to utilize the LRB report as a point of departure.

Since there is a noticeable number of bills submitted annually to amend the State's No-Fault Law, and it has been ten years since the original act was passed, your Committee concurs with the necessity of a complete review of the Hawaii No-Fault insurance law, in order to analyze whether or not it is achieving the results intended by the Legislature.

Your Committee also finds that this review should address the feasibility of requiring all insurers to issue for each insured motor vehicle, a no-fault decal indicating the existence of a current no-fault policy. Currently, Kentucky is the only state which has this statutory requirement and is in the process of repealing the law. Your Committee notes that given the highly sophisticated equipment used by law enforcement officials today which can almost instantly identify legal ownership of a car, it may be that such a decal system is unnecessary.

Finally, your Committee believes that in view of the fact that the study may be the basis for substantive legislative decision, it must be completed in a detailed, comprehensive and objective manner. The consultants selected for the task should be of demonstrated competence, free of bias, and completely objective.

Your Committee takes note of the fact that the DCCA feels strongly that a comprehensive review of all Hawaii insurance laws is feasible and necessary. However, such an in-depth study would cost an estimated \$300,000, and would involve a considerable amount of time to review. Your Committee, although in general agreement with the DCCA's well-meaning orientation, feels that the high costs and lengthy time period needed for such a comprehensive review of all Hawaii insurance laws, are too prohibitive at this time.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2254-84, 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 Senators Carpenter, Kawasaki, Kuroda and Soares.

SCRep. 406-84 Housing and Urban Development on H.B. No. 183

The bill, as received, provides for the inclusion of one-third of the distribution from the individual housing account used to purchase a first principal residence in the individual's gross income for the taxable year of the sale of the residence and for two years thereafter. It also provides for the inclusion

of a ten per cent penalty over the same three-year period.

Your Committee considered the ten per cent penalty which is imposed on the distribution of the housing account for the purchase of the individual's first principal residence. It appears very unfair to your Committee to penalize an individual for using the account for the purpose for which the account was created. Your Committee notes the concerns that these accounts may be used for speculation. Your Committee, however, finds that such concern is of de minimus proportions, since the law on these accounts was enacted to assist our first time home buyers to enter the housing market. First time home buyers are unlikely to command sufficient moneys to speculate or to use these accounts to assist in speculation. The likelihood of these individuals, parents of these individuals, or others using these accounts for the purpose of speculation does not appear to have any real basis. Your Committee does not find that the ten per cent penalty will serve to prevent speculation. Furthermore, this attempt to catch the unlikely few who may speculate or have sufficient funds to speculate does a tremendous disservice to the great majority of Hawaii's people who will honestly use these accounts in earnest to obtain a home. Your Committee has therefore, deleted the penalty provision and made other technical clarifying amendments.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 183, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 183, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 407-84 Housing and Urban Development on H.B. No. 1120

The purpose of this bill is to provide for the funding of loan services and delinquent loan collection activities in the Department of Hawaiian Home Lands through revenues from its Hawaiian Home Interest Fund.

According to testimony, in recent years revenues in the Hawaiian home interest fund have increased. These moneys have come from interest received through the investment of idle cash from loan funds and loans to the department's lessees and from increased delinquent loan collection activities. Staff salaries and other administrative expenditures relating to loan services and delinquent loan collections are presently funded through the Hawaiian home administration account which derives its revenues from the leasing of available lands. This causes a problem because the administration account lacks sufficient resources to meet the additional workload.

Your Committee is of the opinion that, as the number of new loans made and delinquent loan collection activities increase, staff must increase to manage these activities. Your Committee also is in agreement with the proposal to transfer moneys from the Hawaiian home interest fund to the Hawaiian home administration account so that moneys for the increased staff help can be funded. This transfer will create a reliable revenue source for the department to effectively manage its loan program.

Your Committee has made technical, nonsubstantive amendments to the bill to conform to the existing statutes.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1120, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1120, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 408-84 Housing and Urban Development on H.B. No. 1760-84

The purpose of this bill is to authorize the Hawaii Community Development Authority (HCDA) to issue \$30,000,000 of assessment area bonds for district-wide infrastructure improvement projects in the Kaka'ako District.

Section 206E-6, Hawaii Revised Statutes, directs the Authority to undertake public facilities as part of a district-wide improvement program and to assess a part of the cost of these improvements against properties specially benefiting

from such improvements. While this section authorizes HCDA to issue assessment bonds to finance the public facilities, the Legislature did not include a specific authorization amount.

The Authority testified that based on cost estimates projected to 1985, it will need to issue assessment bonds to finance \$25,000,000 to \$29,000,000 of the infrastructure cost. Your Committee agrees that the Authority be allowed to issue \$30,000,000 of assessment bonds.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1760-84 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. 409-84 Housing and Urban Development on H.B. No. 1797-84

The purpose of this bill is to allow the Hawaii Housing Authority to use the Fee Simple Residential Revolving Fund for lease rent renegotiation activities under chapter 519, Hawaii Revised Statutes.

Currently, chapter 519, Hawaii Revised Statutes, provides that the Hawaii Housing Authority or its designee shall arbitrate in the event parties to a lease are unable to achieve an agreement during renegotiation. The law, however, does not provide a source of funds to enable the authority to cover administrative costs related to this arbitration process. Chapter 516, Hawaii Revised Statutes, provides for a Fee Simple Residential Revolving Fund created for the purpose of administering the leasehold to fee simple conversion process. Since there are no general fund appropriations for either of these programs and both chapters 516 and 519, Hawaii Revised Statutes, concern lease-related issues, this bill would provide the Hawaii Housing Authority with a source of funds to administrate the lease rent renegotiation activities set forth in chapter 519, Hawaii Revised Statutes.

This bill addresses only the Hawaii Housing Authority's administrative expenses.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1797-84, 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. 410-84 Housing and Urban Development on H.B. No. 1800-84

The purpose of this bill is to amend Section 7, Act 50, Session Laws of Hawaii 1979, as amended by Section 2, Act 13, Session Laws of Hawaii, First Special Session of 1981, by increasing the authorization amount of tax exempt revenue bonds the Hawaii Housing Authority may issue under the Mortgage Subsidy Bond Tax Act of 1980 from \$475 million to \$875 million.

The State's revenue bond program, known as Hula Mae, has been an effective tool in providing home financing assistance, particularly to young families who are first time homebuyers. Although the sunset provision in the Federal law has stopped the issuance of mortgage revenue bonds as of December 31, 1983, the Department of Social Services and Housing testified on the companion S.B. No. 1573 that there is strong support for re-enactment of the program in the U.S. Congress.

Currently, the principal aggregate amount of revenue bonds which the Hawaii Housing Authority is authorized to issue is \$475 million. Of this \$475 million, \$371 million in revenue bonds have been issued. Under the Mortgage Subsidy Bond Tax Act, the maximum amount of bonds which can be issued in any one calendar year is \$200 million. Because the State's remaining authorization is only \$104 million, the Hawaii Housing Authority will be \$96 million short of the authorization limit this year should congress re-enact the mortgage revenue bond program.

Testimony received from the Hawaii Housing Authority on the companion S.B. No. 1573 indicates that the additional \$400 million authorization will be sufficient to carry out the Hula Mae program for at least another two and a half years.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1800-84, 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. 411-84 Housing and Urban Development on H.B. No. 2035-84

The purpose of this bill is to amend Act 62, Session Laws of Hawaii 1982, by extending the expiration date of January 1, 1985 to January 1, 1986 for the department of land and natural resources to award long-term residential leases covering state land at Milolii, Hawaii, to persons displaced by the lava flow of the 1925 eruption of Mauna Loa, or their descendants, and for the bureau of conveyances to record the leases negotiated.

Your Committee finds that the process of negotiations for subdividing the land to those eligible for leases is expected to be completed in 1985. Unexpected delays may arise, however, making it impossible for the department of land and natural resources to complete its negotiations and for the bureau of conveyances to complete its recordings. Your Committee believes that this bill provides a sufficient time period to accommodate any unforeseen delays in the lease and recording proceedings.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2035-84, 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. 412-84 Tourism on H.B. No. 1549-84

The purpose of this bill is to promote Hawaii as an Olympic training center for athletes who have the potential for competing in the summer games of the world Olympic games. The director of planning and economic development is responsible for implementing the provisions of this bill.

This bill also establishes a sports medicine center within the School of Medicine of the University of Hawaii. The sports medicine center will conduct research in the causes, prevention, cure, and treatment of injuries resulting from sports activities; recommend measures to mitigate or prevent injuries from sports; provide treatment to athletes training and competing in world Olympic games; and conduct educational classes for persons in related areas.

Your Committee finds that the establishment of a properly organized, funded, and functional sports medicine center is essential to the designation of Hawaii as an Olympic training center. It is recommended that the new swimming pool complex be considered as the physical location for the sports medicine center since space there has been allocated for a sports medicine physiology laboratory.

Faculty members of the medical school are currently conducting education and research in the treatment of sport-related injuries. In addition, they have worked in conjunction with the Department of Health, Physical Education and Recreation at the University of Hawaii, Manoa, in developing a curriculum leading to certification of athletic trainers.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 1549-84, 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 Soares.

SCRep. 413-84 Agriculture on H.B. No. 1727-84

The purpose of this bill is to allow the Department of Agriculture to collect fees to reasonably cover the cost of the inspection, sampling and testing for adulteration of all animal feed, except for feed for domestic pets.

Chapter 144, Hawaii Revised Statutes, allows the Department to inspect, test and sample animal feed for adulteration. However, the inspection fees currently provided for under Chapter 144 do not equitably distribute the costs for

conducting the program.

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. 1727-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1727-84, 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 Machida.

SCRep. 414-84 Agriculture on H.B. No. 1905-84

The purpose of this bill is to appropriate \$1,000,000 to be matched dollar for dollar by the Hawaiian Sugar Planters' Association for sugar research and development.

Currently, on a worldwide basis, \$5-6 billion is spent annually on agricultural research. New technology generated from such research has increased technological efficiency, developed new commodities, improved existing commodities, and reduced production risk. This bill will continue the support the State has provided in the past to keep Hawaii's largest agricultural industry viable.

Your Committee heard favorable testimony from the Dean of the College of Tropical Agriculture. Hawaii's sugar industry is a vital component of the State's economic base. The failure of the industry would have widespread effects on the State's economy. The future of the sugar industry is dependent on continuing the research effort that has brought the industry to its present level of efficiency.

Research projects undertaken by the Hawaiian Sugar Planters' Association have resulted in increased sugar yields, improved irrigation techniques, and a reduction in the amount of chemicals needed to protect crops. Your Committee finds that such research in the past has greatly benefitted the State and that the lack of such research would hinder the viability of the industry.

Upon further consideration, your Committee amended the bill by raising the \$1,000,000 appropriation to \$3,000,000.

Your Committee has amended the bill to correct a typographical error which has no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1905-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1905-84, 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 Machida.

SCRep. 415-84 Agriculture on H.B. No. 1906-84

The purpose of this bill is to provide funds to support statewide agricultural activities for the purpose of promoting diversified agricultural interests in the State.

Your Committee received testimony from the Chairman of the Governor's Agriculture Coordinating Committee, the Hawaii Farm Bureau Federation, the Pineapple Growers' Association of Hawaii and the Dean of the College of Tropical Agriculture and Human Resources in support of this measure.

Your Committee finds that the root knot nematode and the reniform nematode are the major limiting factors in the production of Hawaiian pineapple. Soil fumigation has been the standard method of nematode control since the 1940's. However, of the principal fumigants used by the pineapple industry, both DBCP and EDB will soon be discontinued, D-D has been withdrawn from the market, and Telone has not been proven effective against the reniform nematode.

The three-year, \$65,000 per annum, nematode control project outlined in this bill involves research on biological and cultural control measures which may reduce the need to use chemicals or increase the effectiveness of those being

used.

Your Committee also finds that in an on-going project, new fumigants, fumigant formulations, and non-volatile materials are being screened for their effectiveness in nematode control, and drip irrigation water management information is being developed. The Governor's Agriculture Coordinating Committee provided \$70,000 to fund the first year of this three-year project. Funding for an additional two years of research, at \$70,000 per annum, will be required for the completion of the project.

Your Committee finds that it is vital to the continued success of Hawaii's pineapple industry to examine both 1) bio-cultural methods of reducing nematode populations to economically acceptable levels, and 2) various nematicides and methods of application.

Your Committee further finds that several species of nematodes are major pathogens on other crops in Hawaii. It is hoped that research on nematode control in pineapple will also generate information that will be of value to other agricultural crops in the State which are faced with similar problems.

Your Committee also finds that the commodity group and pesticide education programs have been very successful in developing and promoting Hawaii's diversified agricultural products. Continued support from the State in these areas will ensure expanded outreach of programs and increased promotion and marketability of Hawaiian produce.

Your Committee amended the bill by deleting the appropriation to the State Farm Fair and 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. 1906-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1906-84, 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 Machida.

SCRep. 416-84 (Majority) Economic Development on H.B. No. 2021-84

The purpose of this bill is to amend Act 300, Session Laws of Hawaii, Regular Session of 1983, to delete language that makes Aloha Studios, Inc. a part of the Department of Budget and Finance for administrative purposes and to delete language that makes a general fund appropriation for staff and support services to Aloha Studios, Inc.

Your Committee finds that Section 3 of Act 300 erroneously makes Aloha Studios, Inc., a private Hawaii Corporation, a part of the Department of Budget and Finance.

Section 4 of Act 300 originally appropriated \$10,000 to provide support services to Aloha Studios. The appropriation was vetoed by the governor, making the section unnecessary.

Your Committee finds that the proposed amendments to Act 300 would prevent confusion as to the status of Aloha Studios and would delete an unnecessary section in the Act.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2021-84 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 Machida.
Senator Kawasaki did not concur.

SCRep. 417-84 Economic Development on H.B. No. 1728-84

The purpose of this bill is to clarify the statutory definition of the word "gasohol" as used in the general excise tax law.

Presently, state law defines "gasohol" as a gasoline and alcohol liquid fuel mixture consisting of at least ten per cent ethanol. The Environmental Protection Agency, however, by regulation established the upper limit of "...not

more than 10 volume percent,". Further, the Bureau of Alcohol, Tobacco and Firearms has permitted ethanol to be denatured to preclude human consumption.

This bill amends Section 237-27.1(b), Hawaii Revised Statutes, by specifying that the ten per cent ethanol is ten volume per cent and that the ethanol includes the denaturant.

Your Committee finds that this bill will clear up any ambiguity between existing statute and rules, regulations and ongoing industry practice and preclude potential litigation.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1728-84 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 Machida.

SCRep. 418-84 (Majority) Economic Development on H.B. No. 2039-84

The purpose of this bill is to increase the maximum amount which the Department of Planning and Economic Development can loan to any one small business concern under Section 210-6, Hawaii Revised Statutes, from \$100,000 to \$250,000.

Your Committee finds that the existing loan program needs greater flexibility to participate in major projects involving substantial employment and diversification activities. Approximately ten per cent of present loan applicants are in need of loans in excess of \$100,000. Increasing the loan ceiling to \$250,000 would provide the needed flexibility to finance larger projects.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2039-84, 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 Machida.
Senator Kawasaki did not concur.

SCRep. 419-84 (Majority) Economic Development on H.B. No. 2402-84

The purpose of this bill is to extend the expiration date for the Department of Budget and Finance's issuance of special purpose revenue bonds assisting utilities serving the general public from June 30, 1984 to December 31, 1991.

Act 15, Session Laws of Hawaii 1981, First Special Session, authorized the Department of Budget and Finance to issue special purpose revenue bonds not to exceed \$72,252,000 during the period from July 1, 1981 through June 30, 1984 for capital improvement programs of four major utilities. The Act further provided that none of the funds realized is to be used for fossil fuel or nuclear fuel generating units. The entire amount authorized has not been issued and will not be issued by June 30, 1984.

Your Committee finds that extending the time for the issuance of bonds under Act 15 is in the public interest in that it will enhance the ability of the utilities to develop projects utilizing Hawaii's renewable energy resources and thereby reduce the State's dependence upon imported petroleum.

Your Committee amended the bill by making technical nonsubstantive changes to conform the bill to recommended drafting format.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2402-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2402-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Machida.
Senator Kawasaki did not concur.

SCRep. 420-84 (Majority) Economic Development on H.B. No. 2230-84

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 \$12

million for the purpose of assisting Kamakani Ikaika, Inc., a California corporation, or a partnership in which Kamakani Ikaika is a general partner, in the generation of new capital for the establishment of a 5 megawatt wind farm and related facilities on the island of Hawaii.

Your Committee finds that wind energy is an alternative energy resource that can reduce the State's dependence on imported petroleum. Currently, Hawaii pays about \$1 billion annually to import oil which supplies over 90 per cent of the State's energy needs.

Wind energy provides a vast potential as an environmentally acceptable means of electrical power generation in the State of Hawaii. Although Hawaii's tradewinds are an excellent source of power, they have been only slightly utilized in the past, providing less than 2 megawatts of energy. The viability of electrical generation from wind turbines is being demonstrated at Kahua Ranch in the North Kohala District of the Big Island, where a total of 3.4 megawatts will be generated when the wind farm is fully operational.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2230-84, 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 Machida.
Senator Kawasaki did not concur.

SCRep. 421-84 Economic Development on H.B. No. 271

The purpose of this bill is to establish the State Functional Plan Advisory Committees as permanent advisory bodies to the State agencies responsible for preparing, implementing, and monitoring the functional plans, except for state agencies, such as the Department of Education, where advising bodies capable of performing these functions already exist.

Under the existing provisions of Section 226-57, Hawaii Revised Statutes, State Functional Plan Advisory Committees are established as temporary bodies which cease to exist upon the adoption of the respective State Functional Plans. Since the State Functional Plans are subject to continuous monitoring, refinement, and updating, the Advisory Committees can play a major role in assisting State agencies in this ongoing function. The Advisory Committees have made a sincere commitment toward the development of the State Functional Plans, contributing immeasurable time and expertise to ensure that the plans truly reflect the varied concerns of our statewide community.

The bill as received by your Committee designated existing advisory boards or elected policy making boards with statewide representation as State Functional Plan Advisory Committees. For example, the Board of Education (BOE) would be designated as the State Education Plan Advisory Committee. This proposal was based on the Department of Education's earlier contention that a separate State Education Plan Advisory Committee in addition to the BOE and the seven District School Advisory Councils would result in duplication and unnecessary coordination problems.

Your Committee finds that the State Education Plan Advisory Committee is composed of representatives of state and county agencies, experts in the field of education, and the general public which are different from those on the BOE and District School Advisory Councils. The State Education Plan Advisory Committee thus complements rather than duplicates the representation of these bodies. The State Education Plan Advisory Committee serves to extend the BOE's representation, further enhances its interaction with the community and also serves as a valuable liaison in implementing the State Education Plan. Therefore, your Committee has amended the bill to eliminate proposed language that designates existing advisory boards or elected policy making boards with statewide representation, such as the BOE, as State Functional Plan Advisory Committees.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 271, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 271, 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 Machida.

SCRep. 422-84 (Majority) Tourism on H.B. No. 1319

The purpose of this bill is to enable the Department of Land and Natural Resources to establish live-in cultural parks of not less than twenty acres and not more than thirty acres to preserve traditional Hawaiian culture.

This bill would help to reestablish traditional Hawaiian communities and traditional customs which are rapidly being lost, as elder Hawaiians who have first-hand knowledge of these traditions age and pass away.

This bill requires that the Department of Land and Natural Resources work with the Office of Hawaiian Affairs in designating cultural live-in parks and in developing the park plans. The Office of Hawaiian Affairs will be responsible for the subsequent development and management of live-in cultural parks.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 1319, 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 Soares.
Senator George did not concur.

SCRep. 423-84 Higher Education on H.B. No. 1940-84

The purpose of this bill is to increase the amount of funds deposited annually into the University of Hawaii (University) research and training revolving fund and to provide additional advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects.

The current limit on funds deposited into the research and training revolving fund is \$1,000,000. This bill establishes the limit at thirty per cent of all income generated from overhead receipts, with the remainder to be deposited into the state general fund. Translated into dollars this new limit will provide approximately \$2,000,000 annually to the University for support of various research and training activities, allowing the University to remain competitive with other institutions in attracting research funds by providing appropriate reinvestments of overhead in personnel and equipment, incentives to established researchers, and seed money to assist younger faculty in seeking federal support for their research.

This bill also creates a permanent new account of \$2,000,000 to be used to provide advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects. Your Committee finds that, under the federal reimbursable cost system, the University must first incur expenses and then bill the federal government for reimbursement, a process that takes 10 - 12 weeks. Section 304-10, Hawaii Revised Statutes, provides for cash advances to the University for such reimbursable costs up to an aggregate amount not to exceed \$100,000. The proposed bill will allow an increase in cash advances which is of utmost importance to the University in that it provides working capital necessary to attract and receive federal dollars in support of research and training projects.

Your Committee has amended the bill to:

- (1) Clarify the proposed language of Section 304-8.1(a), Hawaii Revised Statutes, relating to the basis upon which the thirty per cent allotment is to be calculated.
- (2) Delete proposed language of Section 304-8.1(a), Hawaii Revised Statutes, which provides that, except for amounts specified in Section 304-8.1(c), unencumbered funds as of June 30 of each fiscal year are to be deposited to the general fund of the State.
- (3) Include new language in Section 304-8.1(b) requiring that the University annual report on the status of the research and training revolving fund include details of indirect overhead receipts, expenditures, advances and reimbursements.
- (4) Substitute the sum of \$2,500,000 for \$2,000,000 in Section 304-8.1(c), Hawaii Revised Statutes, as the amount which may be expended for the purpose of providing advanced funding to meet reimbursable costs

incurred in connection with federally financed research and training projects.

- (5) Clarify that the amount authorized in Section 304-8.1(c), Hawaii Revised Statutes, may be expended notwithstanding Section 304-10, Hawaii Revised Statutes, relating to loans or advances to the University, to the contrary.

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

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1940-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1940-84, 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 Mizuguchi.

SCRep. 424-84 Higher Education on H.B. No. 359

The purpose of this bill is to repeal the sunset provision of Section 304-14.6, Hawaii Revised Statutes, for granting tuition waivers to qualified Hawaii National Guard and Army Reserve members.

Your Committee has received extensive testimony in support of this measure to continue the program for tuition waivers. In addition to being an incentive for recruiting and retaining quality guardsmen and reservists, the tuition waiver serves as a valuable instrument in educating a group of serious and highly motivated men and women who may otherwise have had difficulty obtaining a college education. Your Committee finds that statistically the program has met its objectives by boosting enlistment and re-enlistment participation of guardsmen and reservists, increasing morale, and simultaneously producing more competent individuals. By continuing the Tuition Waiver Program beyond June 30, 1984, the Hawaii National Guard and Army Reserve will be able to continue to offer this attractive benefit to recruit and retain qualified and motivated personnel. The benefit for the State is a reserve force capable of responding to any contingency and citizen soldiers who are skilled and trained for civilian and military duties.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 359 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 Mizuguchi.

SCRep. 425-84 Higher Education on H.B. No. 1941-84

The purpose of this bill is to base the adjustment of graduate assistant stipends on the average percentage of pay adjustments granted to members of collective bargaining unit 7 (faculty of the University of Hawaii and the community college system). Graduate assistants will not be bound to any terms or conditions of the collective bargaining agreement or required to become union members or forced to pay dues or service fees to the union representative.

Your Committee finds that graduate assistants, who provide important support services for research and instruction conducted at the University of Hawaii, have received stipend adjustments substantially less than those received by University faculty. A comparison of stipend increases for graduate assistants and salary increases for the faculty between 1976 and 1982 shows that the percentage of the increased compensation is less than half for graduate assistants than it was for the faculty. In view of the services provided by graduate assistants, your Committee believes that basing their stipend adjustments on the adjustments granted to the faculty will help to avoid the inequities of the past, and assist in the maintenance of the quality of research and instructional programs at the University.

Your Committee made technical changes to the bill which have no substantive effect.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1941-84, H.D. 1, as amended herein, and recommends that it pass

Second Reading in the form attached hereto as H.B. No. 1941-84, 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 Mizuguchi.

SCRep. 426-84 Higher Education on H.B. No. 2169-84

The purpose of this bill is to authorize the Governor to request, pursuant to section 103(e) of the Internal Revenue Code, the organization and operation of the Hawaii Educational Loan Marketing Corporation (HELMAC) as a private nonprofit corporation to be affiliated with the United Student Aid Funds, Inc., for the purpose of acquiring educational loan notes incurred under the federal Higher Education Act of 1965 to provide a secondary market for student loans.

Your Committee heard favorable testimony from the University of Hawaii, the Hawaii Educational Loan Program, the Hawaii Bankers Association and others stressing that this bill would better serve the needs of Hawaii's lenders, schools, and students. Costs related to post-secondary education are increasingly burdensome and it is important that students be provided continuing access to adequate sources of low-interest loans under the guaranteed loan programs of the Higher Education Act of 1965. Also, currently there is a need to provide liquidity for lending institutions making student loans in Hawaii. Due to the unique nature of student loans many lending institutions find illiquidity a problem. This bill would alleviate the problem by allowing a nonprofit corporation to purchase student loan contracts from lending institutions, thus releasing more money for student loans.

Your Committee finds that the establishment of a local private nonprofit corporation, organized and operated for the exclusive purpose of acquiring educational loan notes is in the public interest and would serve to benefit both students and the lending community in Hawaii.

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

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2169-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2169-84, 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 Mizuguchi.

SCRep. 427-84 Human Resources on H.B. No. 2512-84

The purpose of this bill is to increase public employers' monthly contributions to existing medical plans from \$15.98 to \$26.04 for the individual plan and from \$49.14 to \$80.04 for the family plan.

During recent negotiations, the State and counties agreed to increase their contributions to \$80.04 for family coverage and \$26.04 for individual coverage. This bill amends the present contributions by the employers to reflect this change. The employers agreed to the new contribution rate in lieu of higher salary increases. The employer, in agreeing to these health fund increases, will not be paying additional social security and payroll taxes as a result of salary increases.

This bill also appropriates \$5,338,842 out of the general revenues of the State of Hawaii for fiscal year 1984-1985 for the increased cost to the health fund for the State's share of the increased monthly contributions. Your Committee heard favorable testimonies from the Director of the City and County of Honolulu's Department of Civil Service, the Executive Director of the Hawaii Government Employees Association and the Executive Director of the Hawaii State Teachers Association.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2512-84, 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.

SCRep. 428-84 Human Resources on H.B. No. 2248-84

The purpose of this bill is to appropriate \$4,405 to fund a series of conferencing activities on the subject of statewide employment planning needs to identify the scope, content, and directions to be addressed in a comprehensive employment plan for Hawaii.

Your Committee heard favorable testimony from the Department of Labor and Industrial Relations and the Commission on Manpower and Full Employment and finds that in order to effectuate comprehensive employment planning on a statewide basis, it is first necessary to arrive at a consensus on the scope and content of the plan, the interrelationship of its parts, and the overall themes that guide its development. To obtain such a consensus, a comprehensive conference should be held to direct the planning and implementation of economic development and employment opportunities in Hawaii.

Your Committee notes that a related conference on economic development is proposed in H.B. No. 2113-84. Should that bill and this measure both become enacted, your Committee requests that the organizers of both conferences coordinate their activities to ensure the most effective and efficient use of appropriated funds, conference manpower, and participants' time.

Your Committee, upon further consideration, has amended the bill by raising the amount to be appropriated from \$4,405 to \$8,810.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2248-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2248-84, 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. 429-84 Human Resources on H.B. No. 1751-84

The purpose of this bill is to authorize the Hawaii Career Information Delivery System, better known as Career Kokua in the Department of Labor and Industrial Relations (DLIR), to share occupational and career information pertaining to Hawaii with other information systems, states, counties, territories, and private entities on a cost reimbursement basis.

Currently, approximately \$48,000 is payable to the program from the Pacific Occupational Information project, other counties, and private agencies. The program presently lacks the statutory authority to receive and expend such funds. Your Committee finds that this bill will enhance Hawaii's leadership role in the Pacific and elsewhere and will enable Career Kokua to enjoy a greater benefit from its activities.

Your Committee amended the bill to establish a temporary special fund for the period July 1, 1984 to June 30, 1985 into which all funds received by the DLIR for sharing occupational and career information or technical assistance is to be deposited and from which the DLIR is authorized to expend moneys for the purpose of sharing information or technical assistance. Your Committee finds that creation of the special fund will enable the DLIR to more efficiently carry on its program of sharing occupation and career information and technical assistance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1751-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1751-84, 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. 430-84 Human Resources on H.B. No. 1956-84

The purpose of this bill is to limit the amount of health benefit contributions made by public employers for employee-beneficiaries who retire with at least five but less than ten years of credited service, to one-half of the public employer contribution specified in Section 87-4(a), Hawaii Revised Statutes.

Your Committee heard testimony from the Hawaii Public Employees Health Fund, and finds that of the approximately 1,000 state and county employees who retire each year, approximately 13 per cent have less than ten years of

credited service. It is estimated that Hawaii's public employers will save approximately \$142,000 annually if the amount of health benefit contributions is limited as proposed by this bill. Your Committee finds that this bill is both reasonable and necessary in light of these resulting savings.

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

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1956-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1956-84, 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. 431-84 Human Resources on H.B. No. 1749-84

The purpose of this bill is to eliminate mandatory retirement ages from employment in the public and private sectors.

Your Committee finds that current law imposes a mandatory retirement age of seventy years for public employees and allows private employers to establish a mandatory retirement age. This bill would eliminate such mandatory retirement ages in recognition of the fact that chronological age by itself is not a reliable indicator of an individual's ability to continue working.

Specifically, this bill:

- (1) Repeals Section 78-3, Hawaii Revised Statutes, relating to the age limit of state or county employees.
- (2) Amends Section 88-73, Hawaii Revised Statutes, by deleting the requirement of retirement by a member on a service retirement allowance who has at least 5 years of credited service and attains the age of 70 years.
- (3) Repeals Section 297-15, Hawaii Revised Statutes, relating to the age limit of teachers or educational officers in the Department of Education.
- (4) Amends Section 378-3, Hawaii Revised Statutes, to clarify that the exception to the prohibition against discriminatory practices for retirement, pension, employee benefit or insurance plans shall not be construed to permit any employee plan to set a maximum age requirement for hiring or a mandatory retirement age.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1749-84, 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 Young.

SCRep. 432-84 Human Resources on H.B. No. 2327-84

The purpose of this bill is to allow the Board of Trustees of the Public Employees Health Funds to contract for vision and adult dental service plans.

Presently, the law allows dental coverage of children of employee-beneficiaries only until they reach age nineteen, and there is no provision for vision services whatsoever. Furthermore, due to lack of statutory authority, the Board is unable to even consider or study the feasibility of such benefit additions.

Upon consideration of testimony submitted by the Hawaii Public Employees Health Fund, your Committee finds that there is substantial evidence to indicate that vision and adult dental services for employee-beneficiaries are in the public interest and that the Board should have the statutory authority to study and develop such plans should it be considered feasible to do so.

Your Committee has amended the bill to make a technical change which has no substantive effect.

Your Committee on Human Resources is in accord with the intent and purpose

of H.B. No. 2327-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2327-84, 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. 433-84 Government Operations and County Relations on H.B. No.
1725-84

The purpose of this bill is to increase the amount of the bond for contracts for the construction of public works, buildings, roads and other site improvements from 50% to 100% of the contract price.

Your Committee heard favorable testimony from the Department of Accounting and General Services stating that surety companies charge the same fee for a bond of 50% of the contract amount as they do for a bond of 100% of the contract amount. Since the State and its counties pay this fee as part of the contract cost, your Committee finds that it would be in the State's and counties' best interests to obtain the added protection that a bond of 100% of the contract price would provide. The State and counties would have added protection if a general contractor defaults or fails to pay its subcontractors.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 1725-84 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 Senators Machida and Abercrombie.

SCRep. 434-84 Government Operations and County Relations on H.B. No.
1726-84

The purpose of this bill is to allow the use of instruments issued by savings institutions as bid deposits and to raise the maximum amount of cashier's checks, certified checks, and certificates of deposit used as bid deposits.

Under Section 103-28, Hawaii Revised Statutes, bids for public works contracts must be accompanied by a deposit of legal tender or by a certificate of deposit, cashier's check, or certified check on a bank that is insured by the Federal Deposit Insurance Corporation. Your Committee finds that savings institutions issue similar instruments insured by the Federal Savings and Loan Insurance Corporation. This bill will allow certificates of deposit, cashier's checks, or certified checks of savings institutions insured by the Federal Savings and Loan Insurance Corporation as bid deposits for public works contracts.

Further, pursuant to Section 103-28, Hawaii Revised Statutes, a certificate of deposit, cashier's check, or certified check may be utilized only to a maximum of \$40,000. Your Committee finds that banks and savings institutions have had their insured account limits raised to \$100,000. This bill increases the maximum amount of cashier's checks, certified checks, and certificates of deposit allowed as bid deposits from \$40,000 to \$100,000.

Your Committee received supporting testimony from the Hawaii League of Savings Institutions, and has amended the bill by changing the reference from "savings and loan institution" to "savings institution". In late 1982, Federal legislation authorized savings and loan associations to change their name to savings bank. Your Committee finds that the title "savings institution" encompasses both savings and loan associations and savings banks.

Your Committee further 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 H.B. No. 1726-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1726-84, 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 Machida, Abercrombie, Cobb, Solomon and Soares.

SCRep. 435-84 Education on H.B. No. 2602-84

The purpose of this bill is to authorize the chief election officer to redesignate departmental school district and school board district boundaries upon the implementation of a new reapportionment plan.

Departmental school districts and school board districts are established under section 13-1, Hawaii Revised Statutes. After each reapportionment, this law must be updated to reflect the changes made due to the redistricting. The bill would allow the Lieutenant Governor by proclamation to designate the representative districts that comprise the departmental school and school board districts. Your Committee finds that redesignating departmental school districts and school board districts administratively rather than statutorily is more efficient and therefore preferred. The bill also provides that after the implementation of a new reapportionment plan the new departmental school districts shall cover areas similar to those designated under section 13-1, Hawaii Revised Statutes.

To conform with the intent of the bill your Committee has amended the bill to provide that after the implementation of a new reapportionment plan the new school board districts as well as the departmental school districts, shall cover areas similar to those designated under section 13-1, Hawaii Revised Statutes.

Your Committee has further amended the bill 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. 2602-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2602-84, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Holt, Mizuguchi and Young.

SCRep. 436-84 Education on H.B. No. 1921-84

The purpose of this bill is to amend the school priority fund Act to allow the use of the instructional resource augmentation (IRA) portions in the intermediate school levels (grade seven, eight, and nine) of the public school system.

Act 261, Session Laws of Hawaii 1982, established a school priority fund within the Department of Education. The fund serves to augment regular instruction and other educational services, at the discretion of individual schools. Individual schools may now to an extent plan, budget, and administer programs with greater authority and responsibility to satisfy their own unique needs.

Under Act 261 only elementary schools are entitled to instructional resource augmentation positions. This bill would allow up to ten per cent of the positions to be allotted to the intermediate school levels.

Your Committee has amended the bill by: 1) Deleting the proposed allotment of instructional resource augmentation (IRA) positions to intermediate schools on a competitive basis as provided in section 3 of the bill. Your Committee finds that allotting these positions on a competitive basis may cause inequities placing those schools with fewer resources at a disadvantage; 2) Deleting the purpose 3) Deleting the purpose section of the bill as it serves no useful purpose and renumbering the bill accordingly; and 4) Making technical changes which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1921-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1921-84, 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 Holt, Mizuguchi and Young.

SCRep. 437-84 Education on H.B. No. 2406-84

The purpose of this bill is to establish a permanent job-sharing program within the Department of Education.

Act 150, Session Laws of Hawaii, Regular Session 1978, as amended, established a voluntary job-sharing pilot project for teachers in the Department of Education. The project has proven to be successful in two ways. First, it creates a higher degree of employee satisfaction by enabling the participants to pursue both personal and professional goals. Secondly, it allows the State to utilize the talents and resources of two individuals at a cost-savings to the State.

Your Committee has amended the bill by correcting a typographical error in the bill's title and by making technical changes which have no substantive effect.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2406-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2406-84, 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 Holt, Mizuguchi and Young.

SCRep. 438-84 Judiciary on H.B. No. 2320-84

The purpose of this bill is to amend Chapter 843, Hawaii Revised Statutes, relating to the Hawaii Crime Commission, and to allocate \$1 for the fiscal year 1984-85 to operate the Commission. These funds will be expended through the Office of the Lieutenant Governor.

The amendments to Chapter 843 include:

1. Changing the name of the Commission from the Hawaii Crime Commission to the Hawaii Criminal Justice Commission;
2. Deleting the definition section of Chapter 843;
3. Establishing the new Commission from July 1, 1985 to June 30, 1988 and providing for the continuance of the present Commission during the interim period;
4. Deleting the provision that the chairman shall have the power to vote only in the event of a tie vote;
5. Deleting the provision that a Commission nominee shall undergo security screening for criminal history record information which shall be provided to the Governor and the Senate;
6. Deleting the provision which allows the Governor to remove or suspend for cause any Commission member except the chairman;
7. Deleting the provisions concerning the committees of the Commission and their functions;
8. Providing that the functions of the Commission shall be to research, evaluate, and make recommendations regarding the criminal justice system and to develop, recommend, and implement public education programs relating to the criminal justice system; and
9. Replacing gender-specific terms with words that refer to both genders.

The bill retains the provisions dealing with the unauthorized disclosure of confidential information or matter acquired by the Commission. Though the present staff does not intend to gather criminal intelligence information, there is still confidential information gathered during the course of a study. Thus the present statute is necessary to protect against the unauthorized disclosure of that information and the information and matters that have been previously gathered by the Commission staff.

The proposed changes to the Commission will reorganize the purpose and functions so that the Commission will be evaluating and reviewing the operations of the criminal justice system rather than investigating individual criminal activities.

Your Committee finds that there is a need to continue the Commission and agrees that the work of the Commission should be focused on the evaluation of the criminal justice system and the development of public education programs. During its existence, the Crime Commission has provided reports on the criminal justice system to the Legislature.

Your Committee amended the bill to appropriate \$302,000 for fiscal year 1984-85. Your Committee has also made technical, nonsubstantive amendments to this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2320-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2320-84, 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 Cobb and Holt.

SCRep. 439-84 Judiciary on H.B. No. 1950-84

The purpose of this bill as it came to your Committee was to: (1) increase the number of members of the Criminal Injuries Compensation Commission from three to five members and change the rate of compensation to members, (2) increase the number of members that constitute a quorum from two to three members, (3) require the Commission to record by electronic means the hearings of each applicant and to retain the recording until the applicant's right to appeal to the Hawaii Supreme Court expires, or until the completion of the proceedings before the Hawaii Supreme Court if the applicant appeals the Commission's decision, (4) provide that the applicant has the right to appeal an order or decision of the Commission on the ground that the order or decision was arbitrary and capricious, (5) allow payment of compensation to a relative of any victim if such relative has incurred expenses as a result of the victim's injury and death, and (6) repeal the provision prohibiting an award of compensation to a victim except for expenses actually and reasonably incurred as a result of the injury or death of the victim if the victim is a relative of the offender or was living with the offender as a spouse or member of the offender's household.

This bill will expand the class of persons to whom the Commission may order the payment if such person has incurred expenses as a result of the victim's injury and death by allowing such payment to any relative rather than to just a parent of an adult deceased victim, or to an adult son or daughter of a deceased victim. Your Committee finds that there is no justifiable reason to include as eligible for reimbursement only the few relatives specified in the present statute.

Your Committee made the following amendments to the bill:

1. Your Committee finds that the performance of the present Commission is satisfactory and appropriate in view of the difficulty of the decisions they are required to make in sensitive and emotional circumstances. Therefore, your Committee concludes it is unnecessary to increase the number of members on the Commission and make the related changes in the rate of their compensation or the requirement for a quorum. It deleted all sections of the bill regarding this subject.
2. Furthermore, your Committee finds that requiring the Commission to record their hearings is inappropriate. A representative of the Commission testified that they presently record the hearing and keep these tapes for a period longer than the time in which a claimant must appeal. The Committee also deleted the section of the bill regarding this subject.
3. Your Committee moreover concurs with the House that the standard of appeal of the Commission's decision should be lowered to that of arbitrary and capricious, a more realistic standard if appeals are to be allowed in this chapter. However, the Committee elected to retain the language of the present statute to authorize that appeals can be taken from decisions in excess of the Commission's authority or jurisdiction. Your Committee deems this to be an important basis for an appeal. Your Committee additionally provided that appeals should be filed in the circuit court, rather than the Supreme Court. Appeals under this chapter are not of such an urgent nature as to require an immediate

appeal to the highest state court. The Committee amended the bill accordingly.

4. Your Committee also deleted the section of the bill that would have extended compensation to relatives or living companions of offenders. It was concerned about the cost implications of this extension and declined to adopt it.
5. Finally, the most significant amendment your Committee made was 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. It has considered many victim services bills, and have given some of them its strong support. Your Committee believes that measures such as these would better serve more victims than relatively few now awarded compensation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1950-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1950-84, 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 Cobb and Holt.

SCRep. 440-84 Judiciary on H.B. No. 1185

The purpose of this bill is to establish an Office of the Public Guardian in the state Judiciary.

Your Committee finds that there is a serious need to provide a public guardian for incapacitated people who are unable to take care of themselves and are unable to make rational and decisions regarding their daily lives. These incapacitated people generally are elderly and without family or friends to act on their behalf.

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 force found that establishing a public guardian

agency is the best method to deal with the current problems regarding guardianships.

Your Committee supports the establishment of a public guardianship agency. The public guardian is to be appointed by the chief justice. The office of the public guardian will:

- (1) provide a guardian, limited guardian, testamentary guardian, or temporary guardian for the seriously incapacitated person;
- (2) have the powers and responsibilities of a private guardian;
- (3) assist the Family Court as necessary in proceedings for the appointment of guardian of a person and in the supervision of persons, corporations, or agencies appointed as guardians of the person;
- (4) aid those seeking appointment as a guardian for an incapacitated person and provide advice, information, and guidance to assist guardians in the discharge of their duties;
- (5) assist without court appointment as guardian any individuals who request assistance or aid those interested in maintaining the independence of an incapacitated person;
- (6) inform the public on guardianship and encourage able and willing persons to serve as guardian of the person; and
- (7) promulgate the rules necessary to implement its duties.

Funds for the purchase of services for this program shall be included in the state Judiciary budget. Fees received by the public guardian for services shall be deposited in the state general fund.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1185, 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 Senators Cobb and Holt.

SCRep. 441-84 Judiciary on H.B. No. 1911-84

The purpose of this bill is to appropriate an amount of \$50,000 for the fiscal year 1984-85 for the purchase of small tools, equipment and for overtime payment relating to inmate supervision. Such funds will be administered by the Corrections Division of the Department of Social Services and Housing.

Testimony from the Hawaii Paroling Authority explained that the allocation of \$50,000 should be earmarked for the Inmate Community Service Program on Oahu, and that approximately 60%, or \$30,240, will be used to increase inmates' compensation from \$.25 to \$.63 per hour.

Your Committee agrees that the funds should be specifically used for the operation of the Inmate Community Service Program and strongly supports the expenditure of the major portions of these funds for wage increases to inmates. The bill has been amended accordingly.

Since its inception in June of 1983, the Inmate Community Service Program has provided both meaningful work activity for inmates and a valuable service to the community.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1911-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1911-84, 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 Cobb and Holt.

SCRep. 442-84 Judiciary on H.B. No. 851

The purpose of this bill is to allow the Commission on the Status of Women to appoint an executive secretary without regards to Hawaii Revised Statutes,

Chapters 76 and 77.

Your Committee heard favorable testimony from the Commission indicating that the position should be exempt to assure more responsiveness to the goals and objectives set by the Commissioners.

Your Committee notes that several commissions such as the Commission on the Handicapped and Executive Office on Aging have executive directors or secretaries exempt from Hawaii Revised Statutes Chapters 76 and 77.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 851 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 Senators Cobb and Holt.

SCRep. 443-84 Judiciary on H.B. No. 2002-84

The purpose of this bill is 1) to exempt a bailiff for the Chief Justice of the Supreme Court from the civil service requirements; 2) to authorize the bailiff to have the same powers and duties as a circuit court officer and bailiff, and 3) make grammatical corrections to the present civil service exemption statute.

In the past, the bailiff for the Supreme Court was under the supervision of the clerk of the Supreme Court and performed related clerical activities. However, the bailiff's functions have since changed. Now the bailiff is under the direct supervision of the Chief Justice of the Supreme Court and performs the duties of a bailiff in the court room, provides personal and security services to the Chief Justice, attends all official functions with the Chief Justice, and performs research and clerical duties as requested. Your Committee finds these responsibilities make it appropriate for the bailiff to have the same powers and duties as bailiffs in the circuit court.

Your Committee also finds that an exemption from civil service status is warranted for the bailiff's position because of the added responsibilities and the resulting long and often irregular hours of the bailiff and the sensitivity of the personal services performed for the Chief Justice.

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. 2002-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2002-84, 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 Cobb and Holt.

SCRep. 444-84 Judiciary on H.B. No. 1949-84

The purpose of this bill is to appropriate the sum of \$250,000 for the fiscal year 1984-85 to fund the Witness Security and Protection Program. This Program was established to ensure the safety of government witnesses who testify in criminal proceedings. The Attorney General's Office shall administer the funds and submit an annual program report to the Legislature.

Testimony from the Office of the Attorney General and the Honolulu Police Department indicated that:

- (1) The Program was initially funded an amount of \$750,000 for the fiscal year 1982-83. The Attorney General's Office was able to effect cost savings through stringent qualification procedures. As a result, \$114,914 was expended on Program activities that year. The remaining funds lapsed into the general fund.
- (2) The Program was allocated \$250,000 for the fiscal year 1983-84. Total expenditures have not been calculated, however, estimates indicate that the total allocation will not be expended for this fiscal year.

Expenditure patterns for the previous fiscal years indicate that an appropriation of \$175,000 should be sufficient for the 1984-85 fiscal year. Your Committee amended the bill to allocate this amount for the Program.

Your Committee finds that such a program which offers protection to witnesses of crime will encourage these persons to testify and thereby facilitate the successful prosecution of those crimes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1949-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1949-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb and Holt.

SCRep. 445-84 Judiciary on H.B. No. 2092-84

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

Your Committee strongly supports many programs included in the Judiciary appropriations. One innovative program is the establishment of a public guardianship office created to provide guardianship services to incapacitated persons. Your Committee concurs with the House in the finding that this program is necessary and timely. In addition, your Committee maintains its encouragement of nonadversarial methods to resolve disputes by continuing funding to the Neighborhood Justice Center.

Your Committee amended the bill to reduce the Judiciary's appropriation for fiscal year 1984-85 from \$39,199,902 to \$38,049,090 in conformance with the ceilings imposed by the Committee on Ways and Means.

Your Committee is aware that recent revenue projections for the State indicate that there may be more funds available for State programs than originally anticipated and believes that it may be possible to provide a higher level of appropriations than was projected with the ceilings imposed by the Committee on Ways and Means. Your Committee therefore recommends that the Committee on Ways and Means reevaluate the supplemental request of the Judiciary.

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. 2092-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2092-84, 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 Cobb and Holt.

SCRep. 446-84 Human Resources on H.B. No. 1718-84

The purpose of this bill is to allow the parties in the public sector collective bargaining process to extend the impasse resolution time period by mutual agreement, with the concurrence of the Hawaii Public Employment Relations Board.

Currently a rigid time frame is set by law. Your Committee finds that the flexibility provided by the bill to extend the time periods for impasse resolution by mutual agreement could be beneficial towards resolving major issues and leading to a possible settlement.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1718-84, 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 Senators Abercrombie, Aki and Cobb.

SCRep. 447-84 Human Resources on H.B. No. 1946-84

The purpose of this bill is to appropriate \$500,000 for personal care services to eligible medical assistance recipients.

According to testimony provided by the Department of Social Services and Housing, approximately 900 individuals may immediately request or require personal care services which may cost the Department between \$5 million to \$6

million per year if an average four-hours-per-day of service is provided to each recipient.

Current law provides limitations on the amount of personal care services an eligible recipient may receive per month. The Department may offer personal care services within the funds available and has the option of placing a cap on the services offered. Based on current calculations, this means that an individual can be provided no more than \$269 worth of services per month and only 8-10 hours of services per week.

Your Committee heard favorable testimony from the Department of Social Services and Housing, the Executive Office on Aging, the State Planning Council on Developmental Disabilities, the Commission on the Handicapped, and others, and finds that in light of the rising cost of institutional care, alternatives to institutionalization which will permit disabled and elderly people to remain in their own homes are of importance and in the public interest.

Upon further consideration, your Committee has amended the bill by providing that \$50,000 of the appropriation shall be expended by the Executive Office on Aging. It is the intent of your Committee that the \$50,000 be utilized to contract for personal care services for individuals who do not qualify for medical assistance yet cannot afford private insurance or care.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1946-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1946-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Aki and Cobb.

SCRep. 448-84 Human Resources on H.B. No. 1746-84

The purpose of this bill is to revise the basic unemployment insurance contribution rate schedule to conform to recent amendments to the Federal Unemployment Tax Act (FUTA), Public Law 97-248.

Under the current law, the maximum employer contribution rate is 4.5 per cent, the standard rate is 3.0 per cent, new employers are assessed at the rate of 4.5 per cent, and one-half of extended benefits paid to claimants are charged to the UI Trust Fund. Inasmuch as FUTA will, effective January 1, 1985, increase the federal unemployment tax on wages paid by employers from the present 3.5 per cent to 6.2 per cent, and the tax credit allowable to employers on taxes paid to the State from the present 2.7 per cent to 5.4 per cent, Hawaii and all other states whose maximum tax rate is below 5.4 per cent will have to raise their maximum tax rate to at least 5.4 per cent in order to receive the maximum tax credit allowable under FUTA; otherwise, employers will be required to pay more federal unemployment tax.

In addition to raising the maximum tax rate to 5.4 per cent, this bill establishes rate differentials of 0.6 per cent for each level of the tax rate above 3.0 per cent. This is in keeping with section 3301(a)(1) of FUTA which requires that a state's experience rating system must reasonably reflect the experience of individual employers with respect to factors directly related to unemployment risks.

Further, this bill increases the standard contribution rate from 3.0 per cent to 5.4 per cent beginning January 1, 1985, in conformance with FUTA. It also proposes a basic contribution tax rate of 3.6 per cent for new or newly covered employers, which is the maximum rate for positive reserve employers under the revised schedule. Your Committee finds that it is fairer to assign a positive rate to new employers rather than a rate assigned to employers with a negative experience track record.

Finally, this bill provides that extended benefits paid shall be charged to the employers rather than the UI Trust Fund, in order to curtail "fictitious reserves" which could trigger an unwarranted lowering in tax rates and jeopardize the program's solvency.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1746-84, 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 Senators Abercrombie, Aki and Cobb.

SCRep. 449-84 Human Resources on H.B. No. 537

The purpose of this bill is to allow the Department of Social Services and Housing (DSSH) to verify assets of public assistance recipients.

The DSSH and the Attorney General have found that many persons illegally receive welfare benefits even though they have substantial assets. Often these assets take the form of accounts at banks and savings institutions. There is no way of discovering if such accounts exist, and thus detection and prosecution of welfare fraud is hampered. A welfare applicant may falsify his application and escape detection for many months or even years.

Your Committee heard favorable testimonies from the Director of the DSSH and Deputy Attorney General Thomas D. Farrell, and finds that widespread fraud and abuse only defeats the purpose of humane public assistance programs. Such waste and duplication must be eliminated in order to maintain public confidence and fiscal integrity in programs and to assist those who are truly in need. This can only be accomplished by independent verification of the resources of welfare applicants and recipients.

This bill authorizes the DSSH to verify the bank deposits of welfare applicants and recipients through computer cross-matching. The bank match process originates with a request from the DSSH to a bank or group of banks, to match the social security numbers of welfare recipients with depositors whose accounts exceed the welfare eligibility standard. This information is then forwarded to the DSSH data processing section for certain checks to validate the information received. The actual names of welfare recipients are never released to the banks, nor are the names of bank depositors released to DSSH, thereby insuring that individual privacy and confidentiality are protected. If the DSSH determines that a client has excess assets, a termination notice will be sent and the case will be referred to the Investigative and Recovery Service for investigation and possible prosecution. The cost of the program to participating banks is from \$3.50 to \$5.00 per thousand deposit accounts. Software for this program is commercially available.

There are provisions in this bill to ensure that financial institutions have clear authority to release depositor information, to protect depositors who are not welfare recipients, and to require that the State, and not the banks, bears the cost of computer matches.

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

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 537, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 537, 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 Abercrombie, Aki and Cobb.

SCRep. 450-84 Human Resources on H.B. No. 2082-84

The purpose of this bill is to reduce the current payroll costs of both the State and the county governments by providing a one-time, three-month limited duration early retirement incentive to eligible employees covered under the State's retirement system.

Under current law, a member of the Employees' Retirement System is eligible for retirement after 25 years of service, or upon reaching the age of 55 with at least five years of credited service. However, if the member has not attained the age of 55, his retirement allowance is reduced in accordance with factors of actuarial equivalence adopted by the board of trustees of the Employees' Retirement System. Records from the system indicate that the average age of retirement is currently between 60 and 61 years of age.

This bill provides an early retirement incentive for those members who are at least 55 years of age and have at least 20 years of credited service. If the member has not reached age 55, then the benefit will be reduced in accordance with factors of actuarial equivalence adopted by the board of trustees of the Employees' Retirement System upon advice of the actuary. Any member of the Employee's Retirement System who is eligible to retire and retires within the period beginning July 1, 1984, and ending September 30, 1984, shall have 6 per cent added to the product of the total number of years of credited service as multiplied by the employee's statutorily specified percentage (i.e., 2% or 2.5%) which product in turn is multiplied by the average final compensation.

Your Committee, after weighing testimony presented by the Employees' Retirement System, the HGEA, the Department of Budget and Finance, the HSTA, and the City and County of Honolulu, finds that this bill will not only reduce State and County payroll costs, but will also allow upward employee movement through the public employment ranks, thereby providing more entry level job opportunities. Your Committee also notes that in addition to bonus incentive plans proposed by this bill, a program of job sharing on a statewide basis or the uniform adoption of the University of Hawaii's Incentive Early Retirement program may also contribute to the goals envisioned by this legislation, and are worthy of consideration.

Your Committee has amended the bill by providing that the time period shall run until December 31, 1984, instead of September 30, 1984. On this basis, employees must elect to retire during the one hundred and eighty-four day period beginning July 1, 1984, and ending on December 31, 1984, in order to receive the retirement bonus. Your Committee also made technical, non-substantive amendments to the bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2082-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2082-84, 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, Aki and Cobb.

SCRep. 451-84 Higher Education on H.B. No. 1811-84

The purpose of this bill is to provide the University of Hawaii with the flexibility to grant waivers of the nonresident tuition differential on the basis of a comprehensive educational rationale consistent with its mission, rather than solely on the basis of the country of origin of the student and the tuition practices there.

Under present law, the nonresident tuition differential is not applicable to students from any district, state, nation or jurisdiction which does not have public institutions of higher learning. This bill would limit the non-applicability of the nonresident student differential only to students from Pacific and Asian jurisdictions which do not have public institutions of higher learning. This limitation would be consistent with the University's special mission in serving the Pacific and Asian regions.

Section 304-4(b), Hawaii Revised Statutes, empowers the Board of Regents to enter into agreements with government and university officials of any other state or foreign country to provide for a reciprocal waiver of the nonresident tuition differential. These reciprocal agreements are designed to allow Hawaii residents attending foreign universities which have entered into agreements with Hawaii to receive waivers of any nonresident differential. However, testimony from the Vice President of Academic Affairs at the University of Hawaii revealed that this arrangement does not take into account limited opportunities to attend universities in some foreign countries and the non-existence of a nonresident tuition differential in most of these countries. Thus the majority of these reciprocal waiver agreements are not necessary, since they provide no real benefit to Hawaii students attending universities in foreign countries. Furthermore, the granting of a waiver of the nonresident tuition differential only to students whose countries have a reciprocal waiver agreement with the University precludes the University from accepting foreign students whose presence would benefit the school and the community.

This bill would remedy this problem by authorizing the Board to waive the

nonresident tuition differential for those foreign students whose presence at the University of Hawaii would be beneficial to the school and the state, and insure that educational and cultural benefits to the University and state will be the basis for granting tuition waivers.

Your Committee is also concerned however, that this bill, in its present form, would not entirely or properly address the present and potential inequities in the method of awarding waivers of the nonresident tuition differential as it applies to East-West Center student grantees. Your Committee, therefore, has amended Section 1 of the bill to waive the nonresident tuition differential for all East-West Center student grantees pursuing baccalaureate or advanced degrees at the University of Hawaii.

Your Committee finds that the educational rationale and goals of the East-West Center are consistent with those of the University. In addition, students at the East-West Center are normally encouraged by their governments to study in fields which are necessary and vital, but not available in their own countries due to limited resources. Extending the waiver privilege to those student, therefore, would be consistent with the University's mission and their objectives.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1811-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1811-84, 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 Abercrombie, Toguchi, Ajifu and Soares.

SCRep. 452-84 Human Resources on H.B. No. 1634-84

The purpose of this bill is to enable husband and wife employee-beneficiaries of the Public Employees Health Fund to enroll in two "self only" medical plans or one "family" medical plan and one "self only" plan.

Under the present law, husband and wife employee-beneficiaries may enroll in two "self only" medical plans or one "family" medical plan, and the total public employer contribution per month may not exceed the cost of two "self only" medical plans or the cost of one "family" medical plan.

Your Committee heard testimony from the Hawaii Public Employees Health Fund and the Hawaii State Teachers Association, and after due consideration finds that this bill will provide greater flexibility for employees in the selection of a health plan, and that the four alternatives for enrollment provided in the bill would not significantly increase costs to the public employer.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1634-84, 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 Senators Abercrombie and Cayetano.

SCRep. 453-84 (Joint) Health and Consumer Protection and Commerce on H.B. No. 582

The purpose of this bill is to delete the responsibility of licensing physical therapists from the Department of Health and to establish a board of physical therapy within the Department of Commerce and Consumer Affairs (DCCA) for administrative purposes.

This bill is largely a result of a recent study by the Legislative Reference Bureau entitled "Regulation of Physical Therapy in Hawaii," with which your Committees concur.

Your Committees heard supporting testimony from the Hawaii Chapter of the American Physical Therapy Association (HAPTA) and the DCCA, but specific objections offered by the Hawaiian Society of Naturopathic Physicians and the Hawaii State Chiropractic Association indicate that amendments are needed to account for all affected groups and individuals. Therefore, your Committees have made the changes to the following pages of the bill as received:

- (1) Page 2, line 2: added the words "as performed by a physical therapist" after the word "condition", in order to further clarify the definition of physical therapy or physical therapy services;
- (2) Page 3, lines 22 and 23: deleted the words "or specifically exempt from licensure" to clarify that physical therapy services are performed by a licensed physical therapist, thus assuring quality services and a process for monitoring complaints;
- (3) Page 4, lines 7 and 8: deleted the words "or specifically exempt from licensure" and added the words "under this chapter", for the same reasons as in (2) above;
- (4) Page 4, line 13: provided that chiropractic doctors and naturopathic physicians duly licensed under Chapters 442 and 445, respectively, shall be included with licensed physicians, surgeons, and dentists as individuals under whose supervision or referral a physical therapist may practice.
- (5) Page 6, line 12: added the words "or more" after the word "two" in order to provide greater flexibility in filling a board vacancy;
- (6) Page 7, lines 6 and 7: provided that more than half of the board meetings in one year must be missed in order for a member to be subject to removal, and deleted the provision that removal may be without notice or hearing;
- (7) Page 9, line 16: added the words "and in practice" after the word "health" in order to more clearly specify who may practice without necessity of examination when the Act takes effect;
- (8) Page 12, line 11: added the words "but not until at least one calendar year has elapsed from the date of revocation, limitation, or suspension", to more clearly specify when a license which was revoked, limited, or suspended may be restored;
- (9) Page 17, line 14: provided that the Act shall take effect on January 1, 1985, in order to allow transition time to select a board and effect the transfer to DCCA.

Your Committees on Health and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 582, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 582, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Kawasaki, Henderson and Soares.

SCRep. 454-84 Health on H.B. No. 1636-84

The purpose of this bill is to appropriate \$2,742,413 for fiscal period 1983-1985 for equipment for the new Hilo Hospital, which is intended to serve as the major medical center for the Island of Hawaii.

Your Committee finds that since the construction of the new Hilo Hospital is six months ahead of schedule, it can be ready for use in July, 1984 if new equipment needed for the hospital services and operations can be procured. Since new equipment purchases require lead time in order to be appropriately processed, state funds for the current fiscal year are needed to ensure their timely arrival.

Your Committee acknowledges a letter from the Honorable Governor George R. Ariyoshi dated February 10, 1984 which describes the conditions that justify this proposed appropriation, and finds that this measure is in the public's interest and is appropriate for immediate passage pursuant to Article VII, Section 9 of the State Constitution.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1636-84, 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.

SCRep. 455-84 Health on H.B. No. 1729-84

The purpose of this bill is to extend the time for filing a commitment or psychiatric evaluation petition from noon of the day following the end of a 48-hour emergency hospitalization, if ending on a weekend or holiday, to the end of that business day. The bill makes a similar extension of time to file proceedings for involuntary hospitalization when a voluntary patient requests a discharge. Section 334-60, Hawaii Revised Statutes, is also reorganized into seven new sections.

Your Committee heard testimony from the Office of the Attorney General, the Family Court of the First Circuit, the Office of the Public Defender, and the Department of Health, and finds that the proposed extension will allow physicians more time to evaluate their patients and complete necessary documents, thereby alleviating pressure on hospital staff and the Attorney General's office.

Upon further consideration, your Committee has amended the bill by:

1. Adding at page 1, line 9, after the word "officer" the words "unless he has been previously released on bond, bail, supervised release, or his own recognizance in connection with the criminal changes" in order to protect police authorities from potential liability for unlawful imprisonment; and

2. Completing the sentence at page 23, line 13 by adding the words "or for failure by the subject to contact an attorney as provided in section 334- (7) if the court determines the interests of justice so require" to further clarify under what circumstances the court may adjourn or continue a hearing.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1729-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1729-84, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 456-84 Health on H.B. No. 1739-84

The purpose of this bill is to allow collection agencies, which contract with the department of health to collect moneys owed for services rendered under the state comprehensive emergency medical services system, to retain a percentage of the money that they collect as their fee for services.

Presently, collection agencies which collect moneys for accounts written off as bad debts, are paid by the department only after the total sum collected is deposited into the state general fund. By allowing collection agencies to retain a percentage of the money they have collected as their fee for services, this bill eliminates needless administrative costs and allows more efficient administration of the collection of emergency ambulance services accounts receivables.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1739-84, 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. 457-84 Health on H.B. No. 1932-84

The purpose of this bill is to enable the Family Court to order outpatient treatment for mentally ill individuals who need treatment but are incapable of deciding to voluntarily seek or comply with such treatment.

Under present law, such persons cannot be treated until they actually become so imminently dangerous to themselves or to others that they must be involuntarily committed to a psychiatric facility. Under this bill, timely intervention may be initiated to prevent or reduce serious mental deterioration and offer an alternative to institutionalization for such persons, thus permitting appropriate treatment to be provided in the least restrictive environment.

Your Committee heard supporting testimony from the Family Court, the American Civil Liberties Union of Hawaii, and the Department of Health, and finds

that involuntary outpatient treatment, as provided in this bill, is a viable means to provide necessary care to person whose personal history of mental deterioration indicate that they may become imminently dangerous to themselves or to others although they do not immediately pose such a threat.

Your Committee has amended the bill by changing the references to physicians found on page 4, line 13, page 11, line 20, and page 12, line 1, to psychiatrist, in order to be consistent with the language and definition provided on page 3, lines 4-7 and elsewhere throughout the bill. Your Committee has further amended the bill by providing that if the subject does not comply with treatment, the outpatient psychiatrist shall so notify the court.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1932-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1932-84, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 458-84 Health on H.B. No. 1933-84

The purpose of this bill is to amend Chapter 323D, Hawaii Revised Statutes, Health Planning and Resources Development, to improve the health planning law and to include as a principal function of the State Health Planning and Development Agency (SHPDA), the responsibility for controlling increases in health care costs.

This bill provides for: (1) a new function of cost control as a principal duty of SHPDA, with additional authority to perform this function; (2) a requirement that SHPDA report annually to the legislature on methods of controlling health care costs; (3) a planning process that looks toward the economical delivery of health care; (4) new and more stringent criteria for the granting of certificates of need for health care services and facilities; and (5) elimination of existing lengthy and ill-understood certificate of need review criteria.

Your Committee received testimony in support of this bill from the State Health Planning and Development Agency, the Hawaii Medical Service Association, the Hospital Association of Hawaii, and the Hawaiian Society of Naturopathic Physicians. However, many of the testifiers expressed concern that certain provisions require clarification or changes. Upon consideration of these concerns, your Committee made the following amendments to the bill as received:

1. On page 6, line 10, the definition of "Physician" was amended to include a doctor of naturopathy.

2. On page 10, line 17, the phrase "revoke the certificate of need" was replaced with "make public findings." Your Committee is of the opinion that revocation of the certificate of need is to drastic a remedy.

3. On page 19, lines 12 and 13 were retained to allow SHPDA the discretion to extend the certificate of need period beyond one year.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1933-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1933-84, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 459-84 Health on H.B. No. 1976-84

The purpose of this bill is to appropriate \$35,000 to supplement prior appropriations for the maintenance of current patient hours in the Patient Employment Program of the Hansen's Disease Program within the Department of Health (DOH).

Your Committee finds that the DOH needs this appropriation to continue the Patient Employment Program through the fiscal year ending June 30, 1984.

Your Committee has amended the bill by making technical changes to conform to recommended drafting style.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1976-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1976-84, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 460-84 Health on H.B. No. 2182-84

The purpose of this bill is to appropriate \$29,000 for the planning of the community mental health system.

The Office of Community Support of the Mental Health Division, Department of Health, has developed an \$11 million, five-year plan entitled the "Community Residential Facilities Plan" which provides for community-based treatment for the mentally ill. Your Committee finds that the appropriation of \$29,000 provided for in this bill will enable the Office of Community Support to begin working with community mental health centers to implement this Plan.

Your Committee heard testimony from the Department of Health offering support for this bill and finds the Community Residential Facilities Plan to be a cost-effective alternative addressing the needs of 50 per cent of the affected state population. In addition, the Plan provides the mental health system with an alternative and follow-up to the prohibitively expensive hospitalization of the mentally ill.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2182-84, 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. 461-84 Health on H.B. No. 2184-84

The purpose of this bill is to extend enabling legislation which authorizes the issuance of special purpose revenue bonds under Section 39A-52, Hawaii Revised Statutes, from June 30, 1986 to June 30, 1991.

Your Committee finds that tax exempt bonds, with their low interest rates, have proven to be a popular method of financing health care facilities, and that the cost savings realized through these bonds have benefited providers, consumers, and third-party payors of these health care facilities. Therefore, your Committee agrees that enabling legislation which authorizes the issuance of special purpose revenue bonds should be extended to provide a five-year period during which floating rate bonds currently being issued to take advantage of low interest rates may be converted to fixed-rate bonds.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2184-84, 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.

SCRep. 462-84 Health on H.B. No. 2256-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Queen's Medical Center, Wahiawa General Hospital, and G.N. Wilcox Memorial Hospital in financing or refinancing the acquisition of needed equipment.

Your Committee finds that authorization of bonds for health care facilities generally results in considerable interest savings benefitting those facilities, consumers, and the community as a whole. For example, your Committee heard testimony from Queen's Medical Center that the issuance of \$80 million in fixed-rate tax-exempt revenue bonds in 1982 and \$20 million in floating rate tax-exempt revenue bonds in 1983 resulted in estimated interest savings of \$90,162,872 and \$6,836,745 over the respective life of each issue.

To obtain further benefits from the substantial interest savings expected to accrue from the issuance of tax-exempt special purpose revenue bonds, this bill authorizes \$5 million to be used by Queen's Medical Center for routine replacement and addition of movable equipment in fiscal year 1985, \$3 million for Wahiawa General Hospital for routine equipment replacement in fiscal year 1985 and possibly subsequent fiscal years, and \$2 million for G.N. Wilcox Memorial Hospital for replacement and addition of new equipment.

Your Committee finds that this method of financing is preferable to less cost-effective methods such as the use of operational revenues, lease programs, or conventional debt financing, and will further the public interest by promoting lower cost health care. In addition, your Committee finds that the cost of equipment to be acquired through the resources provided by this bill individually will be less than the threshold for a required Certificate of Need review.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2256-84, 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. 463-84 Health on H.B. No. 2257-84

The purpose of this bill is to authorize the Department of Health to provide child abuse and neglect secondary prevention programs.

Current law mandates the Department of Social Services and Housing (DSSH) to receive reports of suspected child abuse and neglect and provide protective services where warranted. However, the statutes are silent with respect to preventing child abuse and neglect in the first place.

Your Committee heard testimony from the Oahu Children's Protective Services Advisory Committee, the Department of Health, the Hawaii Medical Association, the Hawaii Family Stress Center, and the John Howard Association of Hawaii, and finds that reported incidences of child abuse and neglect have increased in past years. Such incidents not only result in immediate injury and emotional trauma, but can also disrupt the entire life of the victim and continue their pernicious effects through subsequent generations. Fortunately, as a result of several years of study, research, and evaluations of a variety of programs and services, knowledge now exists to identify many of the children and their families who are at risk for child abuse. Intervention services aimed at preventing child abuse can then be provided to these families.

Assigning the Department of Health this multi-disciplinary function of intervention services together with its current mandate to provide perinatal, maternal, public health, developmental disabilities, and mental health services, is a strong step toward confronting, reducing, preventing, and eliminating the problem of child abuse and neglect. Your Committee and all concerned parties who provided expert testimony and information support this concept.

Upon further consideration, your Committee has amended the bill to include an appropriation of \$20,000 to effectuate the coordination of the child abuse and neglect prevention programs within the Department of Health. Your Committee has also accepted the advice of the Department of Health and deleted references to treatment on page 2, line 17 and page 4, line 2, of the bill to clarify that child screening is for the purpose of early identification and remediation of social and health problems rather than clinical treatment per se.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2257-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2257-84, H.D. 2, S. D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 464-84 Health on H.B. No. 2294-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$5,000,000 to assist Kuakini Medical Center in financing or refinancing the expansion of acute medical/surgical beds in Hale Pulama Mau and the renovation of the third floor of Hale Kuakini.

Your Committee received favorable testimony from Kuakini Medical Center and the Hospital Association of Hawaii and finds that Kuakini Medical Center is a vital contributor to health and medical education in Hawaii as well as a leader in serving the health care needs of Hawaii's population. Your Committee believes that this bill will result in considerable cost savings to both government and private consumers and therefore recommends its passage.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2294-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2294-84, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 465-84 Health on H.B. No. 2409-84

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds in the sum of \$3,000,000 to finance improvements and secure additional long-term refinancing for the Pohai Nani Good Samaritan Kauhale health care facility.

Your Committee finds that in 1981 a \$9 million bond issue financially assisted the operation of Pohai Nani and the savings obtained helped keep the annual rate increase for residents to six and one-half per cent rather than the anticipated increase of twenty per cent. The proposed bond issue would have a similar cost savings effect and this savings would be passed directly to the facility's residents.

Your Committee further finds that the \$3 million in bonds authorized by this bill is primarily to refinance unpaid loans. One million is needed to refinance an existing second mortgage, one and one-half million to pay outstanding debts and costs incurred during the 1981 bond transaction, and one-half million for other related costs and capital improvements.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2409-84, 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. 466-84 Health on H.B. No. 2612-84

The purpose of this bill is to delegate to the office of environmental quality control (OEQC), for the interim period of one year, the additional and specific responsibility of coordinating an integrated statewide pesticide policy. In addition, the bill establishes a technical advisory committee to be appointed by the governor to assist and advise the OEQC in carrying out and effectuating this responsibility, and mandates the Department of Agriculture to notify the OEQC whenever a pesticide registration exemption in Hawaii is applied for from the federal Environmental Protection Agency.

Your Committee finds that state responsibilities with respect to the regulation, monitoring and enforcement of pesticides, and the maintenance of environmental quality are dispersed among several state and county agencies and, as such, timely and coordinated action with respect to pesticide contamination problems has often been hindered. Your Committee finds that a single agency should coordinate the pesticide management activities of all state agencies involved in pesticide management or environmental quality.

Section 5 of the bill appropriates \$160,000 or so much thereof as may be necessary for fiscal year 1984-1985 to carry out the purposes of the bill.

Your Committee has amended line 3, page 2 of the bill as received to delete the word "establishing" and substitute therefor the phrase "coordinating the establishment of" to clarify the role of the OEQC in the establishment of an integrated pesticide policy.

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. 2612-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2612-84, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 467-84 Tourism on S.C.R. No. 39

The purpose of this concurrent resolution is to request a status report on the Big Island Ocean Recreation and Tourism Project.

Following a public hearing held on House Resolution No. 263 during the 1983 Regular Session, the University of Hawaii Sea Grant Extension Service requested the Department of Planning and Economic Development to utilize funds provided through PED 109 to begin developing a community-based program on the Big Island to promote ocean recreation and education.

The use of State funds for this program was approved because it is important for citizens of Hawaii to become aware and knowledgeable about the ocean environment which surrounds them and the importance of the State's ocean resources. Further, the ocean is an important part of the attraction that Hawaii holds for the visitors who play a vital role in our economy.

Your Committee finds that a program to develop and promote ocean recreation can reap economic benefits for the County of Hawaii and the State. Through the cooperative efforts of community groups and individuals, the private sector, County, State, and Federal agencies, this program and others like it have the potential to make a balanced and significant contribution to the quality of life of the community and the State. The efforts being carried out on the Big Island can serve as a model and inspiration for similar programs throughout the State.

Your Committee finds that there is a need to coordinate the activities of the various agencies involved in this project to make the most effective use of available resources, promote the recreational and tourism potential of the Big Island, and develop a prototype which can be applied on other Islands in the State. This resolution, requesting a status report on the Big Island Recreation and Tourism Project and the development of a five-year plan for developing Big Island recreation opportunities, is necessary to assist the Legislature in making an assessment of the project's progress and to guide future legislative support and decisions in this area.

Your Committee amended paragraph 3, page 2, by deleting the word "during" and adding the words "twenty days prior to" and deleting the year "1984" and adding the year "1985" to extend the deadline for the formal status report.

Your Committee on Tourism 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. 468-84 Tourism on S.R. No. 45

The purpose of this resolution is to request a status report on the Big Island Ocean Recreation and Tourism Project.

Following a public hearing held on House Resolution No. 263 during the 1983 Regular Session, the University of Hawaii Sea Grant Extension Service requested the Department of Planning and Economic Development to utilize funds provided through PED 109 to begin developing a community-based program on the Big Island to promote ocean recreation and education.

The use of State funds for this program was approved because it is important for citizens of Hawaii to become aware and knowledgeable about the ocean environment which surrounds them and the importance of the State's ocean resources. Further, the ocean is an important part of the attraction that Hawaii holds for the visitors who play a vital role in our economy.

Your Committee finds that a program to develop and promote ocean recreation can reap economic benefits for the County of Hawaii and the State. Through the cooperative efforts of community groups and individuals, the private sector, County, State, and Federal agencies, this program and others like it have the potential to make a balanced and significant contribution to the quality of life of the community and the State. The efforts being carried out on the Big Island can serve as a model and inspiration for similar programs throughout the State.

Your Committee finds that there is a need to coordinate the activities of the various agencies involved in this project to make the most effective use of available resources, promote the recreational and tourism potential of the Big Island, and develop a prototype which can be applied on other Islands in the State. This resolution, requesting a status report on the Big Island Recreation and Tourism Project and the development of a five-year plan for developing Big Island recreation opportunities, is necessary to assist the Legislature in making an assessment of the project's progress and to guide future legislative support and decisions in this area.

Your Committee amended paragraph 3, page 2, by deleting the word "during" and adding the words "twenty days prior to" and substituting the year "1985" for the year "1984" to extend the deadline for the formal status report.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 45, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 45, S.D. 1.

Signed by all members of the Committee.

SCRep. 469-84 Tourism on S.R. No. 50

The purpose of this resolution is to request the convening of a state tourism conference to develop a unified policy direction for the visitor industry.

In 1970 Governor John A. Burns convened the Travel Industry Congress. By his invitation, 400 delegates from government, industry, and the public considered resolutions on the visitor industry. Many resolutions passed in 1970 have been realized fourteen years later. One significant accomplishment of the Congress was to call for a limitation in the hotel room inventory in Waikiki, which public planners have used in formulating government goals and objectives.

Since 1970, the visitor industry has become even more important as a component of the State economy. In 1982, it represented twenty-seven percent of the State Gross Product as compared to fifteen percent in 1970.

Your Committee finds that it is timely to gather together leaders within the visitor industry on matters of mutual interest and to include the business community at large and the public at large in dialogue affecting this state's largest industry.

Your Committee has amended the title to delete "TOURISM CONFERENCE" and insert "TRAVEL INDUSTRY CONGRESS" to conform to the title of the conference which was held in 1970.

Your Committee further amended the title to delete the word "DEVELOP" and insert "REVIEW AND ESTABLISH" to broaden the scope of the conference to include a review of the growth of the tourist industry since 1970 and to establish further policy directions.

Your Committee received testimony from the Hawaii Hotel Association requesting the deletion of reference to a hotel room tax as it could be overly suggestive. The inclusion of suggestive issues and debate, however, is important to give direction to the proceedings of the conference. In order to prevent a bias for or against any form of revenue generation, your Committee amended page 1, paragraph 2 of the resolution to delete the words "hotel room tax" and substituted "sources of more permanent funding." Also, your Committee added

"the social impact of tourism" to the list of concerns on page 1, paragraph 2.

Finally, your Committee has made technical changes to the BE IT RESOLVED clause to include "The Chamber of Commerce of Hawaii" as an agency to invite to the conference.

Your Committee has further amended the resolution by making technical changes to conform to recommended drafting format.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 50, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 50, S.D. 1.

Signed by all members of the Committee.

SCRep. 470-84 Tourism on S.C.R. No. 43

The purpose of this concurrent resolution is to request the convening of a state tourism conference to develop a unified policy direction for the visitor industry.

In 1970 Governor John A. Burns convened the Travel Industry Congress. By his invitation, 400 delegates from government, industry, and the public considered resolutions on the visitor industry. Many resolutions passed in 1970 have been realized fourteen years later. One significant accomplishment of the Congress was to call for a limitation in the hotel room inventory in Waikiki, which public planners have used in formulating government goals and objectives.

Since 1970, the visitor industry has become even more important as a component of the State economy. In 1982, it represented twenty-seven percent of the State Gross Product as compared to fifteen percent in 1970.

Your Committee finds that it is timely to gather together leaders within the visitor industry on matters of mutual interest and to include the business community at large and the public at large in dialogue affecting this state's largest industry.

Your Committee has amended the title to delete "TOURISM CONFERENCE" and insert "TRAVEL INDUSTRY CONGRESS" to conform to the title of the conference which was held in 1970.

Your Committee further amended the title to delete the word "DEVELOP" and insert "REVIEW AND ESTABLISH" to broaden the scope of the conference to include a review of the growth of the tourist industry since 1970 and to establish further policy directions.

Your Committee received testimony from the Hawaii Hotel Association requesting the deletion of reference to a hotel room tax as it could be overly suggestive. The inclusion of suggestive issues and debate, however, is important to give direction to the proceedings of the conference. In order to prevent a bias for or against any form of revenue generation, your Committee amended page 1, paragraph 2 of the resolution to delete the words "hotel room tax" and substituted "sources of more permanent funding." Also, your Committee added "the social impact of tourism" to the list of concerns on page 1, paragraph 2.

Finally, your Committee has made technical changes to the BE IT RESOLVED clause to include "The Chamber of Commerce of Hawaii" as an agency to invite to the conference.

Your Committee has further amended the resolution by making technical changes to conform to recommended drafting format.

Your Committee on Tourism 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. 471-84 Tourism on S.R. No. 31

The purpose of this resolution is to request the Department of Land and

Natural Resources (DLNR) to assess existing water hazard warning systems at state beaches to determine whether the public is adequately warned of hazardous and potentially hazardous swimming conditions.

This resolution also requests the DLNR to look into the possibilities of (1) posting international warning signs; (2) implementing other warning systems; and (3) distributing brochures through local hotels which describe hazardous beach conditions.

Your Committee finds that such assessments are necessary in order to take action to better ensure the safety of Hawaii's visitors and local residents who may be unfamiliar with swimming conditions at State and County-owned beach parks.

Your Committee amended the resolution to:

- (1) Include County beach parks in the assessment as it is the intent of this resolution to take steps to protect the health and safety of the general public;
- (2) Request the various county recreation agencies to participate in this study;
- (3) Resolve that copies of this resolution be sent to the Mayors of the various counties to encourage participation and cooperation; and
- (4) Delete the word "do" in page 1, paragraph 3, line 1 and insert the word "may" since State-owned beach parks may not have lifeguards on duty.

Your Committee further amended the resolution to require that the DLNR report its findings to the Legislature twenty days prior to the convening of the Regular Session of 1985.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 31, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 31, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 472-84 Tourism on S.C.R. No. 31

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to assess existing water hazard warning systems at state beaches to determine whether the public is adequately warned of hazardous and potentially hazardous swimming conditions.

This resolution also requests the DLNR to look into the possibilities of (1) posting international warning signs; (2) implementing other warning systems; and (3) distributing brochures through local hotels which describe hazardous beach conditions.

Your Committee finds that such assessments are necessary in order to take action to better ensure the safety of Hawaii's visitors and local residents who may be unfamiliar with swimming conditions at State and County-owned beach parks.

Your Committee amended the resolution to:

- (1) Include County beach parks in the assessment as it is the intent of this resolution to take steps to protect the health and safety of the general public;
- (2) Request the various county recreation agencies to participate in this study;
- (3) Resolve that copies of this resolution be sent to the Mayors of the various counties to encourage participation and cooperation; and
- (4) Delete the word "do" in page 1, paragraph 3, line 1 and insert the word "may" since State-owned beach parks may not have lifeguards on

duty.

Your Committee further amended the resolution to require that the DLNR report its findings to the Legislature twenty days prior to the convening of the Regular Session of 1985.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 31, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 31, S.D. 1.

Signed by all members of the Committee.

SCRep. 473-84 Consumer Protection and Commerce on H.B. No. 1632-84

The purpose of this bill is to amend Section 467-18, Hawaii Revised Statutes, to increase the interest rate on repayments to the Real Estate Recovery Fund from six per cent to ten per cent, as set forth in Section 478-2, Hawaii Revised Statutes.

Your Committee notes that the interest rate on repayments to the Real Estate Recovery Fund has not been amended since the recovery fund was established in 1967. On the other hand, Section 478-2, Hawaii Revised Statutes, relating to interest allowed on judgments, was amended in 1979 to increase the interest rate from six per cent to eight per cent and again in 1981 from eight per cent to the present rate of ten per cent.

Your Committee heard favorable testimony from the Real Estate Commission and the Hawaii Association of Realtors and finds that the proposed change would more accurately reflect the current cost attributable to the loss of the use of the money paid out.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1632-84, 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. 474-84 (Majority) Consumer Protection and Commerce on H.B. No. 2020-84

The purpose of this bill is to comprehensively update provisions relating to loans under chapter 408, Hawaii Revised Statutes, the Industrial Loan Companies Act. The Hawaii Bankers Association, the Hawaii Consumer Finance Association, the Hawaii League of Savings Institutions, and the Bank Examiner testified in support of H.B. No. 2020-84.

Because of changes over time, lenders have increasingly faced difficult interpretive and compliance problems under chapter 408. Antiquated provisions in the law have restricted flexibility and denied Hawaii consumers the benefits of loan programs which are common in other states. Hawaii lenders have had difficulty making available the flexible terms necessary for small business loans or giving the assurances of compliance with state law necessary for selling loans to mainland institutions. Chapter 408 contains inconsistencies, conflicts with federal law, and fails to contemplate many common lending practices. This is because much of the Industrial Loan Companies Act was drafted in 1937 and 1939 and has been amended only in a piecemeal fashion thereafter.

Revision is especially appropriate now. Many sweeping new federal laws have been enacted the past four years facilitating interstate competition among financial institutions and interest rate deregulation. These new laws have been implemented by many new federal regulations affecting many different types of lenders. In addition, Hawaii and the rest of the country are seeing rapid changes in the delivery of financial services and the federal regulation of consumer and commercial credit. The problems of operation under chapter 408, Hawaii Revised Statutes, are illustrated by the fact that no less than eight acts of the 1983 Legislature (Acts 20, 48, 104, 127, 191, 221, 226, and 253) were necessary to address specific problems, following years of annual amendment of the law. House Bill No. 2020-84 represents an attempt to deal in a comprehensive manner with a broad range of the problems which have arisen largely for historic reasons.

House Bill No. 2020-84 includes the following amendments to the law:

SECTION 1. Section 408-1. Formal reference is made to the "Industrial Loan Companies Act" by which chapter 408 has been known. Language has also been deleted because of definitions which have been revised and expanded.

SECTION 2. Section 408-1.1. Because of the comprehensive nature of the disclosure requirements under federal law for consumer transactions and the lack of a compelling reason for a system of inconsistent disclosures for commercial transactions not subject to federal law, this section has been deleted.

SECTION 3. Section 408-2. The definitions have been arranged in alphabetical order with certain definitions added or expanded as follows:

"Billing cycle". The second sentence has been deleted to make the definition simpler and better accommodate commercial or irregular transactions.

"Company". The definition has been simplified to reflect the change in the definition of the word "person".

"Consumer loan". This new definition is intended to correspond to the scope of the Truth in Lending Act. The definition of "consumer loan" is to distinguish consumer and commercial loans for the purposes of certain protections under section 408-15(c)(3), (e), (j)(7), and (j)(10), because those protections may be appropriate for consumer transactions, but not commercial ones. These provisions deal with points, late charges, release fees, and prepayment charges.

"Contract". As the loan contract may be in the form of a credit agreement, loan agreement, or other document other than a promissory note, this definition has been expanded.

"Engaging in the business of an industrial loan company". A redundant and obsolete reference to the loan of money in "weekly, monthly, or other periodical installments" and the references to section 478-3 have been deleted. When this definition was enacted, section 478-3 was the major interest rate limitation provision which is no longer true. Similar changes to the section 478-3 references are made elsewhere.

"Industrial loan company". An obsolete reference to the issuance of investment loan certificates by mortgage companies has been deleted, as well as certain other redundant or archaic language.

"Interest". This definition has been added to simplify later references and clarify interest limitations under section 408-15(b) and (c).

"Licensee". This definition has been added to clarify existing references to the word.

"Open-end loan". The last sentence in this definition has been revised to refer to the replenishment feature of open-end loans in accordance with the Truth in Lending Act definition and to better distinguish open-end from closed-end loans.

"Person". This definition has been revised to make it consistent with the Truth in Lending Act.

"Section 408-3 loan". This new definition has been added to clarify later references to the types of block or advance interest loans described in section 408-3.

"Truth in Lending Act". This definition has been added to simplify later references.

SECTION 4. Section 408-7. Technical changes have been made to this section to incorporate language deleted from section 408-9. Other language is clarified or revised to reflect changes in the definitions.

SECTION 5. Section 408-9. Section 408-9 is deleted as the same subject is covered in section 408-7 and in old section 408-15(e), which is revised section 408-15(h) under the bill.

SECTION 6. Section 408-15. The first sentence in section 408-15(a), a general provision, has been reworded positively to be consistent with the idea of the rights and duties conferred by the section and to avoid unduly restrictive interpretations. Wording is added at the end of the first sentence to clarify that chapter 408's loan-making provisions do not apply when the rate is permissible under other law. The organization of section 408-15 has been changed to simplify this very complex section and to clarify applicability of different subsections to block or simple interest loans. The new separate lettered subsections are discussed below.

Subsection (b)--Advance interest. Subsection (b) deals with precomputed or block interest loans. References have been added to clarify that there are two methods of computing interest under section 408-3.

Wording in new (b) has been otherwise clarified and simplified. Old paragraph (4) on installment payments is merged into new subsection (g), and old paragraph (5) is merged into new subsection (e).

After-maturity interest has been limited to twenty-four per cent a year unless a lesser rate for after-maturity interest is authorized. This formerly was true only for simple interest loans. The new after-maturity provision abandons the term "original rate of interest", which is vague when used to refer to stepped-rate block loans.

The refund provision for section 408-3 loans has been relocated as a new paragraph (3) to section 408-15(b) to clarify its applicability only to block loans. The provision that no refund of less than 25 cents need be made, is expanded to refunds of not less than \$1.00 to reflect modern handling and postage costs.

Subsection (c)--Simple interest. This is a new subsection based on the language formerly contained in subsection (j), the authority for simple interest loans up to a rate of twenty-four per cent per year. References have been added to both fixed and variable rate loans to reflect modern lending practices. After-maturity rates are reworded consistently with block loan provisions, and to provide an after-maturity rate commensurate with the rate allowed on the pre-maturity loan term.

The former restrictions upon the terms and amortization of simple interest loans are deleted. These restrictions were included to ensure in part that industrial loan institutions did not make imprudent loans. This reason is now less important because those licensees which accept thrift investments will now have to have federally insured accounts and be subject to federal limitations on the loans they may make.

Unfortunately, loan term limitations have served to deny Hawaii borrowers many important and helpful loan programs which are widely available elsewhere in the country. As an example, one of the most popular forms of home improvement loans is a ten- or fifteen-year term mortgage which has a thirty-year amortization. Such a loan is not permitted under current chapter 408. Similarly, the result of the present six-year limitation on partially amortized or interest-only loans is that borrowers seeking to refinance loans in the sixth year are forced to pay the costs of title policies, drafting fees, points, and other refinancing expenses merely so that the lender may avoid possible violations of the term limitations (the lender may now make a home improvement loan for a maximum of six years with a thirty-year amortization). To the extent a balloon payment loan imposes the risk of default on the borrower, the term limitation probably serves to make the loan even riskier for the borrower as it eliminates the lender's option to extend the maturity to accommodate possible financial difficulty of the borrower.

An oversight in subsection (c)(2) is corrected by adding reference to loans committed to before May 31, 1980 as well as those made before May 31, 1980.

Subsection (c)(3) contains the provision for points which formerly appeared in subsection (h)(6). The requirement that points be assessed only on real estate loans has now been limited to consumer loans. There is no public interest served by prohibiting these business transactions. The reference to calculating points as part of the permissible interest rate has been modified to except points on calculations for open-end loans. One reason for this change is that problems arise in interpreting old subsection (h)(6), because the Truth in

Lending Act provides that points, while a form of finance charge, are not to be calculated as part of the annual percentage rate for open-end loans, unlike closed-end loans, because the amount the borrower will ultimately borrow and the period of the borrowing are both within the borrower's control and not known to the lender when the disclosures are given. Hawaii law appears to assume that open- and closed-end loans are treated in the same manner under the Truth in Lending Act. This has been corrected to make state law consistent with federal law.

Subsection (d)--Alternative permissible rate. This subsection uses the annual percentage rate under the federal Truth in Lending Act as a means of providing a clear rate authorization and limit. A similar standard is used in the Uniform Consumer Credit Code and in the laws of certain other states. The bill preserves the existing block and simple interest authority because these have been used for many years and are relied upon by certain lenders, while adding the Truth in Lending Act alternative.

Currently, both simple interest loans and block interest loans are tied to a list of authorized charges in subsection (h). The subsection has been amended many times over the past decade. For the most part, chapter 408 does not require authorized charges to be considered as part of the cost of the credit or in the computation of the effective annual rate of interest. Current subsection (h), therefore, does not expressly provide a uniform method of computing the cost to a borrower of a loan transaction when such charges are involved, or a simple way that can be used by the lender to determine readily if the loan is lawful. The Truth in Lending Act calculation fills this gap. Because of the bewildering variety and ever-changing character of consumer and commercial loan transactions, many questions arise about whether certain charges should be treated as part of the cost of credit. In many cases, there are no clear answers under present state law, but answers are provided under the Truth in Lending Act and related law. The Truth in Lending Act and Regulation Z have evolved over some fifteen years and thousands of legal cases and administrative interpretations. Lenders for consumer transactions must already give Regulation Z disclosures and many lenders are federally examined to assure disclosures are properly given.

Most charges imposed by a creditor in connection with a loan must be calculated into the cost of credit under Regulation Z. "Finance charge" is defined under federal law to include "any charge payable directly or indirectly by a consumer and imposed directly or indirectly by a creditor as an incident to or a condition of extension of credit". From the finance charge, the annual percentage rate is computed. The annual percentage rate standard is used in the bill solely for the narrow purpose as a rate measurement tool for the assistance of parties involved in loan transactions. Should substantial federal law changes later occur which affect the definition of annual percentage rate, the legislature will be free in future years to review the continued use of this measurement standard. State law will continue to govern loan transactions under chapter 408, but will incorporate the federal annual percentage rate standard merely as a credit cost measurement formula.

Certain charges may be "excludable" from the definition of finance charge, if certain conditions are met under federal law. For example, taxes and filing fees prescribed by law may be excluded from the finance charge under Regulation Z, but only if they actually will be paid to public officials. Language is contained in the last paragraph of subsection (d) under which a licensee is "presumed" for rate computation purposes only to have given Regulation Z disclosures. Testimony clarified that this provision will not lessen or limit the obligations and liabilities of lenders under federal law to give disclosures.

For many, if not most loans, the permissible rate of interest under alternative subsection (d) will be lower than that permitted for the same loan under alternative (b) or (c), because if other charges are computed into the cost of credit, the annual percentage rate will increase. Because there is still a twenty-four per cent ceiling which the annual percentage rate cannot exceed, less "interest" is permitted under subsection (d).

Subsection (d) will allow creditors to pass on charges which are not authorized under the list of charges in subsection (h), which will become revised subsection (j). This is needed to enable customary, acceptable loan-related charges to be levied. The corresponding offset is that if these charges are part of the finance charge under Regulation Z, then the charges

will be calculated as part of the lender's maximum twenty-four per cent annual percentage rate. Many of the charges currently authorized under subsection (h) and many of the customary charges under new subsection (d) are part of the finance charge under the Truth in Lending Act. Examples of this would include release fees retained by the lender, required credit insurance, appraisal and credit report charges in non-real estate loans, charges upon a transfer of equity, points, loan fees, and so on. The Truth in Lending Act sweeps up these charges and treats them as part of the maximum rate, rather than authorizing them in addition to a rate.

The last two sentences in subsection (d) are intended to avoid the misunderstanding that (d) is dependent on applicability of or compliance with the Truth in Lending Act.

Subsection (e)--Late charges. This new subsection has been added to deal with late charges on all types of loans. Requirements for notice and the five per cent maximum charge have been limited to consumer loans. For many commercial loan transactions (which may be up to \$750,000), the five per cent or \$50 limitation is not realistic and in some cases, the percentage measure does not reflect the terms of a commercial transaction. The five per cent late charge is authorized under the bill for both simple and block interest consumer loans. The \$50 limitation has been eliminated for all loans.

Subsection (f)--Fraction of a month. This was old subsection (c). The requirement to treat part of a month as a whole month for interest computation purposes is made optional, rather than mandatory, and made applicable to late charge calculations.

Subsection (g)--Repayment terms. This was old subsection (d). The repayment terms have been broadened and reference has been added to demand loans. Reference to demand loans was in old subsection (j). Repayment may be essentially what is agreed in the contract. References only to installment repayments or a single payment on maturity are too limited given the great variety of loan plans today. While earlier repayment would theoretically tend to increase the effective return on a block loan, the refund requirements in new subsection (b)(3) and the overall ceiling rate remove this concern practically. (Old subsection (f) has been moved to new subsection (b)(3) as earlier noted.)

Subsection (h)--Application, licensees only. This was old subsection (e). Wording here has been simplified to reflect the changes in definitions.

Subsection (i)--Deferred payments, interest, etc. This was old subsection (g) and has been revised to allow greater flexibility in permitting extensions for partial payments and to avoid an implication that it covers only block loans. As revised it also would require agreements to be signed only by the borrower with one copy furnished to the borrower, instead of one each to the borrower and the lender, to reflect modern lending practices for certain transactions.

Subsection (j)--Other charges. This was old subsection (h). Wording has been clarified and limited to refer only to advance interest (subsection (b)) and simple interest (subsection (c)) loans. References have been added to recording fees and preparation costs for financing statements, security agreements, and instruments, and certain archaic language, such as that referring to chattel mortgages, has been deleted. Several charges, which are customary and routine in many loan transactions, and necessary to compensate lenders fairly, have been put in express wording to clarify and confirm present law. These include survey, notary, and title report fees actually paid to third parties. Two provisions dealing with appraisal fees have been placed side by side for clarity. Provision has been made for mortgage reserve funds and premiums for mortgage insurance. The reference to attorney's fees has been broadened to refer expressly to the cost and expenses of repossession, foreclosure, and other legal remedies, which normally are subject to court allowance. The limitation upon fees for transfers of equity or assignment of contracts has been increased from \$10 to \$25 and limited to consumer loans. As earlier noted, the authorization for points, formerly subsection (h)(6), has been relocated to the simple interest provision and is now subsection (c)(3).

The authorization for attorneys' fees for drafting various documents has been expanded and clarified. Wording relating to prepayment charges has been clarified with respect to the measure of a twelve-month period and certain restrictions have been limited to consumer loans.

Express reference has been added to commitment fees. The treatment of such fees under existing laws is sometimes questioned. Usury case law in other states provides distinctions between commitment fees and prepaid interest or "points", and the new wording should clarify the distinction in Hawaii. Certain charges which are excludable from the finance charge under Regulation Z and commonly expected to be paid and received have been added to clarify and confirm present law. These include loan application fees, overdraft charges, and charges for participation in open-end credit plans.

Application fees are imposed by many lenders for mortgage loans, where a great deal of work may be necessary merely to process an application. The fee may be imposed under (j) only if it is a genuine application fee charged to "all applicants". This protects against charging only loan-approved or loan-disapproved borrowers. Open-end accounts are frequently tied to checking accounts which have overdraft fees, because of the problems and costs in servicing checks drawn over a credit limit and to discourage overdrafts. Such overdraft or overline fees are common nationally and are readily understood by consumers familiar with similar charges for checks drawn on insufficient funds. Last, membership fees for participation in an open-end credit plan are common in Hawaii and nationally. Many large New York and California banks which solicit local customers by mail impose such fees and assess interest at rates higher than permitted Hawaii institutions. A credit card provides identification, a badge of credit worthiness, a means of cashing checks, record keeping services, and incidental benefits for particular programs (which may include flight insurance or special purchase opportunities); yet because of monthly "free ride" periods a consumer may never pay a penny of interest. Disallowing participation or membership fees under chapter 408 requires the less affluent who use the credit to subsidize those who have the funds to pay promptly each month and avoid interest charges and places local financial institutions in an even more handicapped position than currently exists in competition with mainland institutions.

Old subsection (i) has been eliminated as conditional sale contracts were used under the predecessor of our Retail Installment Sales Act. Old subsection (j) has now become subsection (c) in modified form as earlier noted.

Subsection (k)--Acceleration of installments. Revision has been made to reflect changes in definitions and to parallel the change in subsection (g) with respect to demand loans.

Subsection (l)--Open-end loans. This subsection has not been changed in major respect. Because open-end loan programs may fall under the new alternative permissible interest rate, reference has been added that licensees may lend at the rates permitted under subsection (c) or (d). Language has been corrected in subsection (1)(3)(B), which formerly would have permitted an interest rate up to 52 times higher than what likely was intended. The requirement for written notice of changed terms under subsection (1)(5) has been modified to provide for fifteen days notice consistent with that required under the Truth in Lending Act. Subsection (1)(7) has been modified to clarify and confirm that late charges may be imposed in connection with open-end loans, subject to the limitations contained in subsection (e), and other charges may be permitted only as provided in subsection (j) or in the alternative, under subsection (d), but not under a mix of both methods.

SECTION 7. Section 408-16. The first sentence of this section is clarified so that the two chapter 478 usury provisions cited do not apply to loans made by industrial loan companies under the authority of chapter 408, rather than exempting all loans made by licensees. Loan-related charges recoverable by borrowers for contracts made at excessive rates are brought into agreement with changes to old section 408-15(h) (new (j)) by deletion of an obsolete reference to certain of those charges. The penalty for imposing an excessive rate of interest has been modified to an amount of interest paid by the borrower up to one year after the date of the contract. At present, inequitable situations could arise with long-term loans where a lender charging a small excessive charge may lose such interest for up to fifteen years. The loss of such interest paid up to one year after the date of the contract is a very substantial penalty and avoids inequitable application of the excessive charge penalty. The last sentence has been moved to section 408-16 from section 408-17, with only a deletion of redundant wording.

SECTION 8. Section 408-17. The existing provisions in section 408-17 either duplicate or conflict with existing provisions in Regulation Z. The bill would

eliminate the duplicative and obsolete provisions.

Paragraph (1) has vague and different language than the far more comprehensive and clearer requirements of section 226.18 of Regulation Z. "Actual effective rate of interest", for example, lacks the necessary legal certainty of meaning of the defined term "annual percentage rate" under the Truth in Lending Act. Other inconsistencies and problems are resolved by the deletion. In addition to federal law, lenders also must comply with Hawaii's new plain language law which requires that consumer contracts "...be written in a clear and coherent manner using words with common and everyday meanings, and appropriately divided and captioned by its various sections" (section 487A-1, Hawaii Revised Statutes).

Paragraph (2), requiring a separate receipt for each payment, simply does not conform to modern lending practices and technological change. Most borrowers receive canceled checks, monthly billing statements, and an annual statement; to impose the further cost of a separate mailing for each receipt simply increases the cost of borrowing with no commensurate benefit to borrower or lender. It should be noted the 1983 legislature provided an exemption for payment by check or draft (Act 221) which has largely eliminated the former significance of this paragraph.

Paragraph (3) also is obsolete. Marking "indelibly every application or security" with the word "paid" or "canceled" protects neither the borrower nor the lender. Various federal consumer credit laws have mandatory record keeping requirements. With respect to mortgages, assignments, or other instruments filed with the assistant registrar of the land court, the lender cannot return these as they are retained permanently in the land court system. There are substantial legal penalties for lenders which fail to release security interests upon payment (see for example section 490:9-404, Hawaii Revised Statutes) and indemnification requirements for lenders which fail to return promissory notes upon full payment (see for example section 490:3-804, Hawaii Revised Statutes).

Paragraphs (4) and (5) are merely paraphrases of requirements under the former version of Regulation Z. While the language in paragraph (5) is somewhat unclear if it pertained to all loans, it was intended to provide certain disclosures for open-end loans only. The Truth in Lending Act retains requirements similar to those in paragraphs (4) and (5), but with different wording and rules.

The requirement for a rate chart in section 408-17 is not feasible and has been deleted. The hundreds of varying commercial and consumer loan programs and day-to-day rate changes with credit decisions made on the credit worthiness of individual borrowers, as well as the security afforded in particular transactions, means that there is no useful way information can be conveyed in the form of a simple rate chart.

The requirement for an effective rate of interest disclosure as part of each note has never been clear in view of the different methods under which interest is computed and the lack of definition of what constitutes an effective rate.

A requirement has been added to section 408-17 to assure that borrowers are furnished a contract copy. Because of mail or telephone transactions, reference is added to furnishing the contract as soon as is practicable, if not when the contract is made. To reduce uncertainty where there are accommodation parties, "borrower" is defined for purposes of this provision.

SECTION 9. Section 408-20. This section has been substantially revised. The first sentence relating to banking, trust company, and savings and loan association business has been deleted. Other laws governing those types of institutions contain restrictions upon doing such business without a license. That which an industrial lender can do is elsewhere specified in chapter 408. The line between "banking" and "engaging in the business of an industrial loan company" is not always clear and the industrial lender should have the benefit of the powers and rights given by specific wording in chapter 408 without unnecessary comparisons that theoretically might limit those powers and rights. The second sentence in the present section 408-20 relates to lenders splitting loans or making a number of small loans to take advantage of a higher rate authority. Because chapter 408 does not have split rates which would enable a lender to obtain a higher return by making a series of small loans, this prohibition is not appropriate and has been deleted. The last two sentences in

section 408-20 have been revised. More flexibility is given to industrial loan companies to transfer loans to out-of-state buyers; however, the present restrictions on transfer to in-state parties are retained. The non-recourse requirements also are retained except for pledge transactions. Recourse may be implied by the nature of the pledge financing. Without authorization for the pledge of chapter 408 loans, licensees would be unable to borrow funds on a secured basis or enter into routine financing arrangements, such as a warehousing line of credit.

SECTIONS 10 and 11. Sections 478-4 and 407-92.5. Sections 10 and 11 have been added to provide that banks and savings and loan associations which lend under the authority of chapter 408 will be subject to the same penalties imposed by chapter 408 as an industrial loan company. The change clarifies the intent of existing law to confirm that banks and savings and loan associations are subject to the same penalties to the same extent as industrial loan companies with respect to the same types of loans if an excessive charge is imposed or another violation of section 408-15 or 408-17 arises, rather than under other law.

Your Committee has amended the bill to delete those provisions in the bill which would have eliminated the present "drop dead" provisions in chapter 408 under which the present interest rate authority enacted in 1980 would expire on July 1, 1985. Your Committee believes this important subject is more properly addressed in a separate bill, S.B. No. 2087-84, S.D. 1, which deals with other usury laws in addition to chapter 408.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2020-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2020-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 475-84 Economic Development on H.B. No. 267

The purpose of this bill is to redefine petroleum shortage, expand the Governor's emergency powers during such a shortage, and establish a hardship set-aside system of petroleum products during a shortage.

Section 125C-2, Hawaii Revised Statutes, currently defines a shortage only in terms of a decrease in the supply of available gasoline. This bill defines a shortage as a gap between supply and demand and would change the definition of shortage to apply to a broader range of petroleum products.

The bill also strengthens the State's capabilities of managing shortages of petroleum products by enabling the Governor or his authorized representative to exercise control over petroleum substitutes in the generation of electricity and blending of gasohol.

This bill also establishes a State hardship set-aside program to control no more than five per cent of available fuels to protect the public's health, safety, and welfare, to maintain essential services, and to aid agricultural and other vital and competitive industries. Due to the lack of federal guidance for energy emergency preparedness and the expiration of the Federal Emergency Petroleum Allocation Act in 1981, the State must establish its own statutory basis for an emergency set-aside system.

Your Committee finds that a set-aside program for the control of a small portion of available fuels during a petroleum products shortage is essential for the maintenance of the health, safety, and welfare of the people of Hawaii. During the first six months of the 1973-74 shortage, Hawaii's federally authorized set-aside program avoided an estimated \$10 million potential loss in income and the probable failure of over 100 businesses.

Your Committee amended the bill by making technical changes to conform to recommended drafting style.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 267, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached as H.B. No. 267, H.D. 2, S.D. 1,

and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 476-84 Economic Development on H.B. No. 2110-84

The purpose of this bill is to delete the effective time period for which the Department of Planning and Economic Development (DPED) is the central coordinating agency for filmmaking permit activities in the State and to delete the requirement that the DPED issue filmmaking permits and collect fees for such permits.

Act 235, Session Laws of Hawaii, Regular Session of 1983, in part, empowered the DPED to be the central coordinating agency for film permit activities in the State until June 30, 1984 and to issue permits and collect fees with respect to filmmaking activities. Presently, DPED is in the process of establishing the Film Industry Permit Application Center (FIPAC) in response to Act 235. FIPAC will provide information on filming sites, the permits which apply to those sites, and how the necessary permits may be obtained. The applicant will fill out a basic information form and all the necessary permit application forms. FIPAC staff will process all the State permits and notify the applicant when the permits have been obtained. FIPAC will thus be a one-stop intake center for applications. FIPAC, as it is now being established, does not depend upon Act 235 for its formation since FIPAC can continue under DPED's statutory mandates and administrative directives.

Your Committee finds that the mandate of Act 235 requiring a permit system for the filmmaking industry may have an adverse economic effect on the filmmaking industry and that such a system is unnecessary at this time. Your committee further finds that an intake center such as the FIPAC is a more positive approach to regulating the filmmaking industry and is in the best interest of the State. Therefore, your Committee is in agreement with the intent of H.B. No. 2110-84, H.D. 2, to eliminate the requirement of a filmmaking permit system.

Your Committee also agrees with the intent of H.B. No. 2110-84, H.D. 2, to have the DPED continue as the central agency coordinating film permit activities without necessity of a time period for such authority.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2110-84, 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. 477-84 Higher Education on H.B. No. 2261-84

The purpose of this bill is to clarify the statutory qualifications for resident tuition fees at the University of Hawaii.

Currently, University of Hawaii students must fulfill residency requirements prior to their "registration" at the university in order to qualify for resident tuition status. This allows students the option to register anytime within a two to three week period prior to, during, or after the first day of instruction. Because this sliding registration deadline could lend itself to inconsistent application or unfair manipulation of residency requirements, this bill would set the residency determination date as the "first day of official scheduled instruction".

Your Committee heard favorable testimony from the Vice President for Academic Affairs of the University of Hawaii, who stated that this bill will bring the present law into conformity with University policy.

Your Committee has amended the bill by making changes to the definitions of criteria to qualify for resident tuition fee. Specifically, the bill was amended by:

- (1) Substituting the words "particular college or campus" for "university" since the first day of officially scheduled instruction varies from campus to campus.
- (2) Substituting the word "nonresident" for "reside outside" to clarify that

Section 304-4(c)(2), Hawaii Revised Statutes, is concerned with the residency of a parent or guardian of a student as opposed to where such a parent or guardian may presently reside.

- (3) Substituting the words "the student's" for "his" in order to remove any reference to gender.
- (4) Substituting the word "officially" for "official" for purposes of grammatical accuracy.
- (5) Adding to the phrase "the student's first day of officially scheduled instruction" new language which states "for any semester or term in which the student is enrolling". The purpose of this amendment is to clarify that a student who meets the residency criteria prior to the first day of instruction in any semester or term will qualify for the resident tuition for that term.
- (6) Changing the effective date of the bill to the date of its approval. The bill, as received by your Committee, provided that the bill take effect the spring semester following its approval.

Your Committee has further amended the bill to correct an error in the numbering of the sections of the bill.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2261-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2261-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 478-84 (Majority) Human Resources on H.B. No. 1747-84

The purpose of this bill is to deny unemployment benefits to: (1) all non-professional employees of educational institutions between successive academic years or terms, or during holiday or vacation periods if the employees have reasonable assurance of work in the second year or term or after such holiday or vacation period with an exception made for retroactive payment of compensation; (2) professional and non-professional employees of educational institutions during holiday or vacation periods if the employees have reasonable assurance of work after a holiday or vacation period; and (3) professional and nonprofessional employees of governmental educational service agencies between successive academic years or terms or during holiday or vacation periods if the employees have reasonable assurance of work in the second year or term or after such holiday or vacation period.

The present law requires the State to deny benefits between academic years or terms only to professional employees working in instructional, research, and principal administrative capacities in an institution of education if they have a reasonable assurance of returning to work in the next academic year or term.

Your Committee finds that denial of benefits to individuals employed by educational institutions as provided in the bill is required for conformity with federal statute and to avoid loss of the tax credit and the administrative grant to administer the employment security program.

Your Committee amended the bill by amending line 4 to 6 on page 8 of the bill as received to delete the words ", and if such services are provided to or on behalf of an educational institution" to conform to federal law.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1747-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1747-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Abercrombie and Cayetano did not concur.

SCRep. 479-84 Economic Development on H.B. No. 1753-84

The purpose of this bill is to amend Section 188E-1, Hawaii Revised Statutes,

to retain the Marine Affairs Advisor, formerly the Marine Affairs Coordinator, as an ex-officio voting member of the Hawaii Fisheries Coordinating Council (HFCC) and to reflect a recent name change by the Pacific Tuna Development Foundation to the Pacific Fisheries Development Foundation.

The HFCC advises the Board of Land and Natural Resources on fisheries matters and coordinates such matters among the various federal, state and county agencies, and private industry.

In 1982 the position of Marine Affairs Coordinator, an ex-officio member of HFCC under the Office of the Governor, was abolished and subsequently redesignated as the Marine Affairs Advisor. This bill amends Section 188E-1, Hawaii Revised Statutes, to reflect this change.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1753-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1753-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 480-84 Economic Development on H.B. No. 1757-84

The purpose of this bill is to revise the powers and duties of the Department of Planning and Economic Development (DPED) in marine affairs.

Act 281, Session Laws of Hawaii, Regular Session 1982, abolished the Office of Marine Affairs Coordinator and assigned its function to DPED. The Ocean Resources Office was organized within DPED to carry out these functions and the existing DPED ocean resource development programs. The establishment of the Ocean Resources Office was approved by the Governor in 1983, with the condition that a request be submitted to the Legislature to revise the language of the powers and duties to prevent functional overlaps between DPED and the Department of Land and Natural Resources (DLNR).

The most significant changes proposed by this bill are amendments to section 201-13, Hawaii Revised Statutes, to delete language relating to the DPED's responsibility in the solicitation and expenditure of federal funds. Such language could be interpreted to place the responsibility for soliciting and expending all federal funds for fisheries with DPED, instead of DLNR, the lead agency for fisheries development. Your Committee finds that though the DPED has not interpreted the statute in this matter, it would be appropriate to amend the statute so that no confusion arises. The Director of DPED is a member of the Fisheries Coordinating Council, and by virtue of this assignment, the Department regularly participates in the review and evaluation of fisheries proposals seeking federal funds.

The bill also makes other language changes in section 201-13 to prevent overlaps between the functions of the DPED and the DLNR.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1757-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1757-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 481-84 Tourism on H.B. No. 2139-84

The purpose of this bill is to allow commercial catamarans possessing a valid permit or registration certificate issued by the State Department of Transportation (DOT) for the embarking and disembarking of passengers on Waikiki Beach to moor in Ala Wai boat harbor at facilities leased for commercial purposes.

Your Committee finds that Section 266-21, Hawaii Revised Statutes, presently

prohibits the moorage of any commercial vessel at Ala Wai boat harbor because there is a commercial harbor (Kewalo Basin) available within a distance of three statute miles. Catamarans conducting commercial operations upon Waikiki shore waters are required by DOT to moor at Kewalo Basin or Honolulu Harbor and are severely limited in their operations due to the time needed to sail from either Kewalo Basin or Honolulu Harbor to Waikiki.

Your Committee finds that it is in the best interest of tourism and of revenue generation that commercial catamarans permitted by DOT to operate in Waikiki shore waters be permitted to moor as close as possible to the site of their daily operations. Your Committee further finds that, for mooring purposes, these "commercial" catamarans are essentially the same as catamarans used for strictly recreational purposes.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 2139-84, 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. 482-84 Housing and Urban Development on H.B. No. 1432

The purpose of this bill is to repeal Chapter 359L, Hawaii Revised Statutes, which pertains to state regulation of factory-built housing.

Presently, any factory-built housing constructed in the State must be approved by the Department of Commerce and Consumer Affairs (DCCA). Your Committee finds that because DCCA does not have adequate staffing, it must presently coordinate with the counties and with licensed structural engineers from the private sector in order to approve or disapprove the factory-built housing units.

Since respective counties have the responsibility in all other instances to approve, inspect and certify that structures meet county building code standards, the approval, inspection and certification of factory-built housing should more properly rest with the counties than with the State.

Your Committee finds that this bill would eliminate another layer of governmental review thereby reducing time and cost to those seeking approval of factory-built housing.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1432, 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. 483-84 (Majority) Housing and Urban Development on H.B. No. 1571

The purpose of this bill is to amend section 202, Hawaiian Homes Commission Act, 1920, as amended, in order to extend the term of employment of contract individuals.

Under present law, the department of Hawaiian home lands may employ an individual under contract for a maximum of six years. The six-year maximum is inadequate for many contract individuals who provide services such as developing, implementing, and managing programs and projects in the areas of housing and agricultural development, financing and real estate planning, management, and development so critical to the department's programs goals and objectives.

Your Committee has amended the bill by deleting a statement in the purpose section which no longer applies to the bill in the amended form received by your Committee. Other technical, nonsubstantive amendments have been made.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1571, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1571, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 484-84 Housing and Urban Development on H.B. No. 2192-84

The purpose of this bill is to allow the Department of Hawaiian Home Lands to develop, construct, and dispose of multi-family dwelling units on Hawaiian Home lands.

Presently, the Department of Hawaiian Home Lands (DHHL) grants residential homestead leases for subdivided lots. According to testimony, the DHHL needs greater flexibility to explore alternative development models in order to accelerate the granting of homestead awards. This bill would diversify the types of residential units available to potential lessees and reduce the cost of land development and home ownership.

Your Committee finds that this proposal will contribute greatly to the DHHL's goal of accelerating homestead awards and also to the priority housing objectives of the Hawaii State Plan as expressed in Section 226-19, Hawaii Revised Statutes.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 2192-84, 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. 485-84 Housing and Urban Development on H.B. No. 2193-84

The purpose of this bill is to allow the Department of Hawaiian Home Lands the option to enter into contracts for the maintenance of its water systems and for the billing and collecting of water fees from consumers.

This bill will allow the Department of Hawaiian Home Lands to contract the services of local water supply departments or others to perform tasks related to water system maintenance and customer servicing. The Department would retain overall authority and responsibility through its control over allowed users and pricing, as well as through terms and conditions that would be incorporated into contracts.

Your Committee is in agreement that the bill would reduce costs to the department's beneficiaries and to the State, without sacrificing safety and efficiency.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 2193-84, 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. 486-84 Housing and Urban Development on H.B. No. 2194-84

The purpose of this bill is to allow payment, upon the death of a lessee of a homestead grant awarded by the Department of Hawaiian Home Lands, of the net proceeds for improvements made by the lessee to the spouse or children who are not qualified to succeed in the lease.

Your Committee finds that existing law permits the payment of net proceeds only upon cancellation or surrender of a leasehold interest. When a Hawaiian Homes lessee dies leaving a spouse or child not qualified to succeed to the homestead interest and there are no qualified relatives to succeed to the lease, the lease is canceled and the payout of the net proceeds is made to the legal representative of the deceased lessee. Existing law also provides that when a lessee dies leaving a spouse or child not qualified to succeed to the homestead, and there are qualified relatives to succeed to the homestead, no such payment is authorized. In this case, the Hawaiian Homes Commission designates a qualified relative to succeed to such a homestead and the successor receives the entire value of the homestead interest while the immediate family of the deceased lessee is left with nothing.

Your Committee finds that as increasing numbers of native Hawaiians with non-native Hawaiian spouses and children are receiving homestead awards, there is a need to provide for the equitable reimbursement of improvements made to the leased properties.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 2194-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2194-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 487-84 Housing and Urban Development on H.B. No. 2195-84

The purpose of this bill is to allow the Department of Hawaiian Home Lands to make licenses for mercantile establishments available to all native Hawaiians by removing existing specification that licenses be granted only to current homestead lessees.

Section 207(c) of the Hawaiian Homes Commission Act, as currently worded, specifies that mercantile licenses for uses such as theaters, service stations, markets, and stores may be issued only to current lessees of the Department of Hawaiian Home Lands homesteads, thereby excluding native Hawaiians who are not lessees. This specificity is incongruous with the purpose of the Act, which is to bestow benefits upon as many native Hawaiians as possible.

Your Committee finds that this bill will open the opportunity for obtaining a mercantile license to a greater portion of qualified beneficiaries.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 2195-84, 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. 488-84 Housing and Urban Development on H.B. No. 2597-84

The purpose of this bill is to amend section 359G-4.1, Hawaii Revised Statutes, to permit the Hawaii housing authority (HHA), on behalf of the State or in partnership, to develop housing projects which are exempt from development and general plans adopted by the various counties. It also provides that final plans and specifications of an HHA project shall be deemed approved by a county's legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications.

Your Committee finds that it is the intent of section 359G-4.1, Hawaii Revised Statutes, to provide an expedited process for government-assisted housing projects. This expedited process indicates a comprehensive exemption from laws, ordinances, and regulations. Your Committee finds that to require that HHA projects proceed through a duplicative and lengthy procedure in order to obtain a planning exemption is not consistent with the intent of the statute.

Currently, the final plans and specifications cannot deviate at all from the preliminary plans and specifications. Your Committee received testimony which stated that in any housing project it is inevitable that field conditions will necessitate minor changes in the plans as work progresses. The bill recognizes this reality and therefore would allow minor changes without requiring the final plans and specifications to be reconsidered by the county legislative body.

Your Committee has amended this bill by deleting the phrase "approved by the legislative body," from page 3, lines 2 and 3, of the bill, as received. The phrase was repealed from section 359G-4.1, Hawaii Revised Statutes, by Act 164, Session Laws of Hawaii 1983. Other technical, nonsubstantive amendments have been made.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 2597-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2597-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 489-84 Economic Development on H.B. No. 2108-84

The purpose of this bill is to amend Section 188-29, Hawaii Revised Statutes, by adding a new paragraph which would allow persons engaged in surround net fishing with SCUBA to transport fish to boats or the shore in nets with a mesh measurement of not less than one and one-half inches. The present minimum legal size mesh for netting is two inches stretched mesh.

SCUBA fishermen have long known that schooling fish such as weke can be herded and captured with nets set on the ocean bottom. It has become common practice among divers, after capture, to transfer portions of the catch into nets of smaller mesh for movement from the fishing ground to the surface and their boats.

This bill will permit the use of nets with mesh not less than one and one-half inches to assist SCUBA fishermen in transporting their catch. Your Committee finds that the bill is not contrary to the conservation principle that catching nets should have a mesh measurement of two inches or more to enable regeneration of fish populations since the bill only applies to the transportation of captured fish.

Your Committee amended the bill by:

- (1) Amending the proposed language of the new paragraph (7) to include the word "mesh" to clarify the intent of the bill.
- (2) Amending paragraph (8) to limit the size of a bullpen trap to 1500 feet in any direction and to limit the time such a trap may be left in the water to sixteen hours. Your Committee finds that bullpen trap fishing is not contrary to the conservation concerns of the Department of Land and Natural Resources provided that reasonable size and time limitations are specified.
- (3) Amending Section 188-28.5, Hawaii Revised Statutes, to clarify the definition of a bullpen trap. The Department of Land and Natural Resources testified on S.B. No. 2246-84, relating to bullpen traps, that a recent effort to prosecute a violation under this section was not pursued because the court considered the statutory language to be ambiguous.
- (4) Deleting Subsection (b) of Section 188-28.5, Hawaii Revised Statutes, which refers to gill nets, since such language was unnecessary and repetitive and since, by definition, gill nets are covered by Section 188-29, Hawaii Revised Statutes.
- (5) Including technical amendments which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2108-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2108-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 490-84 Judiciary on H.B. No. 1892-84

The purpose of this bill is to add a new section to the Hawaii Penal Code, Hawaii Revised Statutes, to create the offense of impersonating a peace officer, which shall be a class C felony. The bill also excludes impersonation of a peace officer from the lesser offense of impersonation of a public servant.

A person may be charged with the offense of impersonating a peace officer if he or she pretends to be a peace officer and acts in that capacity to deceive another person. The fact that the office or position the person pretended to hold did not exist is no defense.

"Peace officer" is defined in section 710-1000, Hawaii Revised Statutes, as "any public servant vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to a specific class of offenses."

This definition would include police officers, the sheriff and deputy sheriffs of the State Judiciary, law enforcement officers of the Department of the Attorney General, and investigators of the Department of Social Services and Housing.

The bill also provides that the offense of impersonating a peace officer is separate from and not included in the offense of impersonating a public servant. The latter offense, set forth in section 710-1016, Hawaii Revised Statutes, is a misdemeanor. "Public servant", as defined in section 710-1000, Hawaii Revised Statutes, "means any officer or employee of any branch of government, whether elected, appointed, or otherwise employed, and any person participating as advisor, consultant, or otherwise, in performing a governmental function, but the term does not include jurors or witnesses."

Testimony from both the Honolulu Police Department and Honolulu Prosecuting Attorney's Office discussed the particularly serious problem of recent cases involving sexual abuse, assault, and homicide of female motorists committed by persons posing as law enforcement officers.

In light of these recent cases, your Committee recognizes the need to establish an offense which imposes a greater criminal penalty for impersonating law enforcement officers.

Your Committee made a technical, nonsubstantive amendment to the bill.

Your Committee on Judiciary is in accord with the intent and purposes of H.B. No. 1892-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1892-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 491-84 Judiciary on H.B. No. 1848-84

The purpose of this bill is to neutralize the gender-specific language of section 573-1, Hawaii Revised Statutes, governing each spouse's right to separate property.

Your Committee received testimony from the Hawaii State Commission on the Status of Women, the City and County of Honolulu Committee on the Status of Women, and the Hawaii Women Lawyers in support of this bill.

Your Committee finds that making statutory language neutral as to sex is in accord with Hawaii's Equal Rights Amendment of the Constitution of the State of Hawaii.

Your Committee also finds that by making the language of this section gender-neutral, all married persons are given the right to retain and control separate property upon marriage, free from the management, control, debts, and obligations of their spouses, and to receive, receipt for, hold, manage, and dispose of real and personal property in the same manner as if they were single.

Your Committee made a technical, nonsubstantive amendment to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1848-84, H.D. 1, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1848-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 492-84 Judiciary on H.B. No. 1842-84

The purpose of this bill is to amend section 580-72, Hawaii Revised Statutes, to make its language neutral in gender, giving all married persons, regardless of sex, the right to sue for separate maintenance, and allowing suits for separate maintenance to be brought in that person's own name.

Your Committee heard testimony from the Honolulu City and County Committee

on the Status of Women in support of this bill. Your Committee also supports changing the language of the present statute to make it gender-neutral, thereby extending the right to sue for separate maintenance to husbands, who can sue in their own name.

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. 1842-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached as H.B. No. 1842-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 493-84 Judiciary on H.B. No. 1989-84

The purpose of this bill is to amend section 584-11, Hawaii Revised Statutes, to 1) allow any report concerning a blood test in a paternity action to be admitted into evidence; 2) specify that the report may include evidence relating to an expert's opinion on paternity based on the duration of pregnancy, to blood test results, and to other medical evidence on paternity; and 3) provide the right to all parties to rebut the results of any blood test and any report concerning a blood test.

Your Committee heard testimony from the Family Court, the City and County of Honolulu Department of Corporation Counsel, and the Department of Social Services and Housing in support of the bill. It also heard testimony from a private attorney against the bill.

Your Committee recognizes that such great advances in science and technology have been made in recent years that blood tests, which indicate whether the alleged father can be excluded as the natural father, have been relied upon as a determinative factor in many paternity cases. Accordingly, highly reliable blood tests should be given due weight by the court. The bill proposes to do this by authorizing the admissibility of blood tests, thereby relieving the petitioner of laying the necessary foundation to move the blood test into evidence, and consequently shifting the burden of proof to the defendant to rebut the blood test and its results. However, this shifting of the burden makes it all the more difficult for the defendant to successfully defend the case: once the blood test is admitted, he will most likely be forced to attack its invalidity or inappropriateness by use of another blood test and expert witnesses, which can be very costly, and thus an unrealistic strategy for the average defendant.

In balancing the competing equities of the mother, the child, and the alleged father, your Committee finds that blood tests still do not represent a perfect science which can prove with one hundred per cent accuracy that the alleged father is or is not the natural father. Therefore, your Committee amended the bill to permit only blood tests with a very high rate of probability of paternity, i.e., ninety-five per cent or more, to be admitted into evidence, subject to rebuttal. The percentage rate is arbitrary, but one which your Committee hopes will insure that only the blood tests with highest probability will be afforded the judicial presumption of reliability. For blood tests with a lesser rate of probability, the petitioner will still have the burden of laying the proper foundation for and moving the test into evidence.

Your Committee also amended the language of the bill to more accurately reflect that blood tests are utilized to ascertain paternity and to conform the language of the bill to the present statute.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1989-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1989-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 494-84 Consumer Protection and Commerce on H.B. No. 1816-84

The purpose of this bill was to extend the repeal date of the Board of Dental Hygienists for another six years to December 31, 1990.

Your Committee heard favorable testimony from the Board of Dental Examiners which stated that under the Sunset law the Board of Dental Hygienists is scheduled to expire on December 31, 1984, and that there is a continued need to regulate and train dental hygienists in order to ensure the protection, health, and safety of the public.

Upon further consideration, your Committee has amended the bill to extend the repeal date of the Board of Dental Hygienists for another four years to December 31, 1988, rather than six years.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1816-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1816-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 495-84 Consumer Protection and Commerce on H.B. No. 1777-84

The purpose of this bill is to have the Legislative Auditor instead of the Director of the Department of Commerce and Consumer Affairs (DCCA) analyze new regulatory measures being considered for enactment.

The Director of DCCA testified that, just as the Office of the Legislative Auditor under section 26H-5, Hawaii Revised Statutes is designated to evaluate existing boards, commissions and regulatory programs, it is the appropriate agency to analyze new regulatory measures being considered for enactment.

When the Hawaii Regulatory Licensing Reform Act was enacted in 1977, the Director of DCCA was designated to evaluate existing boards, commissions and regulatory programs. In 1980, the law was amended to have the Legislative Auditor instead of the Director of DCCA do the evaluation since the latter provides staff and administrative services to the boards and commissions and is not a wholly impartial party. The Legislative Auditor is a disinterested third party.

The Director further testified that since new regulatory measures would very likely be placed in the DCCA, it would be more suitable to have the Legislative Auditor's Office, which is an independent body and an arm of the Legislature to do the analysis.

This bill also amends section 26H-4, Hawaii Revised Statutes, to make the Board of Pilot Commissioners (Board) subject to the Hawaii Regulatory Licensing Reform Act. The Board of Pilot Commissioners consists of five members, and was placed within DCCA for administrative purposes in 1978. Prior to that, the Board was under the Department of Transportation. The Board currently regulates and licenses port pilots, and it is recommended by DCCA that this Board be added to the group of boards which will come under sunset review by the legislature in 1985.

Your Committee has amended the bill to correct an inadvertent omission of existing statutory language and to make a technical change 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. 1777-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1777-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang and Soares.

SCRep. 496-84 Consumer Protection and Commerce on H.B. No. 1815-84

The purpose of this bill was to amend section 26H-4, Hawaii Revised Statutes, to stay the December 31, 1984 repeal date of Chapter 448, relating to the Board of Dental Examiners by providing for continuation of the Board for an additional six years.

Upon further consideration, your Committee has amended the bill by providing for a four year extension, expiring December 31, 1988, rather than a six year

extension.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1815-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1815-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 497-84 Consumer Protection and Commerce on H.B. No. 1878-84

The purpose of this bill was to amend Sections 484-15 and 484-16(b), Hawaii Revised Statutes, relating to penalties and civil remedies under the Uniform Land Sales Practices Act.

This measure would increase the minimum fine for violations of the Uniform Land Sales Practices Act from \$1,000 to \$5,000 and increase the maximum fine from \$50,000 to \$250,000. Additionally, this bill would enhance the civil remedies available to purchasers of subdivided lands sold in violation of the law. Section 484-16(b) currently allows purchasers to recover the consideration paid for the lot or interest in subdivided lands together with interest at the rate of six per cent a year from the date of payment. The bill as received by your Committee would increase the rate of interest recoverable to twelve per cent a year.

Your Committee amended the bill on page 2, lines 1 and 2 and lines 10 and 11 by changing the reference to a twelve per cent interest rate to interest as "provided for in section 478-2,". Currently, the Legislature is incorporating Section 478-2, Hawaii Revised Statutes, which sets forth the interest recoverable on judgments, into a number of bills under consideration. The purpose for doing this is to insure that future changes to the interest rates of various statutory provisions such as Section 484-16, Hawaii Revised Statutes, can be uniformly made by a single amendment to Section 478-2, Hawaii Revised Statutes.

Your Committee finds that the increased fines and interest recoverable under the provisions of this bill will afford greater protection to consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1878-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1878-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 498-84 (Majority) Consumer Protection and Commerce on H.B. No. 1788-84

The purpose of this bill is to eliminate regulatory provisions relating to itinerant vendors for temporary or transient businesses operating within the State.

Your Committee received testimony from the administrator of the Business Registration Division of the Department of Commerce and Consumer Affairs stating that the statute was originally enacted to "protect Hawaii's residents from those persons who would sell shoddy goods and leave town on the next boat." Current air transportation services renders the law anachronistic and virtually unenforceable against violators and many vendors are unaware of its existence. The administrator concluded that the statute "tends to penalize the law-abiding businessman and is a paper tiger to the fly-by-night artists."

The statute has another unfavorable aspect in that it is occasionally misinterpreted by business people on the neighbor islands who construe it to pertain to established Honolulu businesses which undertake temporary operations on the neighbor islands.

Your Committee finds that the current law has outworn its usefulness, and as the administrator suggests, does nothing to enhance Hawaii's business image.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1788-84 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 Soares.
Senator Kawasaki did not concur.

SCRep. 499-84 Consumer Protection and Commerce on H.B. No. 2396-84

Your Committee finds that the present fines are not sufficiently high to prevent or curb licensed contractors from aiding and abetting unlicensed contractors. While educational efforts, inter-industry and enforcement efforts are being made, the activities of unlicensed contractors continue. Under current law, licensed contractors are not deterred from risking citations from violations of the law or from including the amount of the fine in their price quotations, in case they are cited.

Your Committee heard testimony in support of this bill from the Subcontractors Association of Hawaii, Hawaii Roofing Contractors Association, and the Contractors License Board, and finds that increasing the fine to approximately double the existing amount would assist in deterring potential violators.

Your Committee has amended the bill 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. 2396-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2396-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 500-84 Consumer Protection and Commerce on H.B. No. 537

The purpose of this bill is to allow the Department of Social Services and Housing (DSSH) to verify assets of public assistance recipients.

The DSSH and the Attorney General have indications that some persons illegally receive welfare benefits even though they have substantial assets, often reflected in accounts at banks and savings institutions. There is no way, at present, of discovering such accounts; thus detection and prosecution of welfare fraud is hampered. Consequently, a welfare applicant may falsify an application and escape detection for a long period.

Your Committee heard supporting testimony from Deputy Attorney General Thomas D. Farrell, that widespread fraud and abuse defeats the purpose of humane public assistance programs, and must be eliminated in order to maintain public confidence and fiscal integrity in programs that assist those truly in need. This can be accomplished by independent verification of the resources of welfare applicants and recipients.

This bill authorizes the DSSH to verify the bank deposits of welfare applicants and recipients through computer cross-matching. The bank match process originates with a request from the DSSH to a bank or group of banks to match the social security numbers of welfare recipients with depositors whose accounts exceed the welfare eligibility standard. This information is then forwarded to the DSSH data processing section for validation of the information received. The names of welfare recipients are never released to the banks, nor are the names of bank depositors released to DSSH, thereby ensuring that individual privacy and confidentiality are protected. If the DSSH determines that a client has excess assets, a termination notice will be sent and the case will be referred to the Investigative and Recovery Service for investigation and possible prosecution. The cost of the program to participating banks is from \$3.50 to \$5.00 per thousand deposit accounts. Software for this program is commercially available.

There are provisions in this bill to ensure that financial institutions have clear authority to release depositor information, to protect depositors who are not welfare recipients, and to require that the State, and not the banks, bears the cost of computer matches.

Your Committee has made technical, nonsubstantive amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 537, 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. 537, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Chang and Soares.

SCRep. 501-84 Consumer Protection and Commerce on H.B. No. 654

The purpose of this bill was to repeal Section 403-38.5, Hawaii Revised Statutes, and to add a new section to chapter 403 which would establish a filing requirement for individuals and corporate entities seeking a controlling interest in Hawaii banks. This bill also proposed adding new provisions to the Hawaii corporation laws intended to protect shareholders of Hawaii corporations from possible negative effects of a takeover attempt.

Currently, Section 403-38.5, Hawaii Revised Statutes, provides that no more than 25 per cent of the total voting stock of banks regulated under chapter 403 shall be held or acquired by foreign corporations or nonresident aliens, unless prior written approval is obtained from the Bank Examiner. The proposed new section to be added to chapter 403 replaces Section 403-38.5, Hawaii Revised Statutes, with a requirement that any person seeking to acquire control of a bank or holding company must provide 60 days' prior written notice to the State Bank Examiner.

To understand the merits of this proposal, it is important to consider the change in the Bank Control Act of 1978, Title VI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (hereinafter referred to as the "Act.")

The Act gives the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency the authority to disapprove changes in control of insured banks and bank holding companies. Similar to Section 403-38.5(b), Hawaii Revised Statutes, the "Act" defines control as the power, directly or indirectly, to vote 25 per cent or more of any class of voting securities or to direct the management or policies of an insured bank. The Act goes much further than Section 403-38.5, Hawaii Revised Statutes, in that it requires extensive written notice to be filed with the appropriate Federal banking agency. More importantly, the Act, unlike Section 403-38.5, Hawaii Revised Statutes, lists the factors and standards that the Federal banking agencies are to consider in determining whether a proposed acquisition should be disapproved. These factors address the concerns expressed in Section 403-38.5, Hawaii Revised Statutes, in that they require consideration of financial condition, competence, experience, and integrity of the acquiring party, as well as the effect of the acquisition on competition.

Your Committee is in agreement that Section 403-38.5, Hawaii Revised Statutes, should be repealed since the State is regulating an area already fully and effectively regulated by the Federal government. The Federal government has the resources to more adequately regulate this area. The State's interest is also adequately protected by the notification of the State Bank Examiner in the existing Federal statute and the proposed legislation. Should the Bank Examiner have objections to the potential acquiring party, those objections can be made to the Federal regulating authority. Additionally, the application of Section 403-38.5, Hawaii Revised Statutes, may result in a conflict between the State and Federal statute, resulting in the State statute being pre-empted by the Federal statute.

The bill as received by your Committee added provisions to Chapter 416, Hawaii Revised Statutes, to afford all shareholders of Hawaii corporations (1) registered under the Securities Exchange Act of 1934, (2) with five per cent or more of its voting stock beneficially owned by Hawaii residents, (3) having its principal place of business or principal executive offices within this State, and (4) with substantial assets within this State, an increased level of protection from the harmful and negative effects that may occur subsequent to an acquisition by a shareholder of a controlling interest in the corporation by (A) providing the shareholders with an opportunity to review and vote on certain post acquisition transactions and (B) ensuring that each shareholder will receive a fair price for his or her stock if an offer is made to the remaining shareholders.

Your Committee, upon hearing testimony both for and against the provisions relating to Chapter 416, decided that further study is required on the proposed

changes to existing law and, therefore, amended the bill to delete all proposed changes to Chapter 416 from the bill.

Your Committee further amended the bill to capitalize the letter "c" in the word "change" used in the "Change In Bank Control Act of 1978" cited on page 2 of the bill and by changing the effective date from "upon approval" to January 1, 1987.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 654, 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. 654, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Chang and Soares.

SCRep. 502-84 Consumer Protection and Commerce on H.B. No. 2028-84

The purpose of this bill was to make coverage of psychological services a mandatory part of all accident and sickness insurance policies.

Upon extensive consideration your Committee has amended the bill by deleting entirely the provisions dealing with accident and sickness insurance policies and inserting provisions to strengthen and clarify the law on practicing psychology in the State of Hawaii.

This amended bill is the product of extensive interim research and study by a special study committee composed of members of the psychological community and health care consumer representatives. The special study committee was established in 1983 following legislative action on Senate Bill No. 711, relating to practicing psychologists, which was enacted as Act 95, Session Laws of Hawaii 1983. Although Act 95 represented a major step in updating the law on psychology, much remained to be done, and the Chairman of your Committee requested establishment of the special study committee for that purpose.

After many meetings, the special study committee prepared and submitted its refinements of the law on psychology, which became the foundation of this bill. Your Committee observes that one principal issue emerges for further resolution: the question of academic preparation and qualification of those persons who would sit for the licensure examination in the field of psychology and accreditation of their academic institutions.

After considering at length the several aspects of accreditation, your Committee elected to conform to the standards required by the regional accrediting organizations. As a result, the bill includes in the definition of "approved program", the program of an institution which is a recognized candidate for accreditation. The bill also provides that an applicant for licensure may sit for the examination if the applicant completed the requisite academic training within the two-year period prior to the date the institution attained the status of candidacy for accreditation. The applicant may sit for the licensure examination as long as the candidacy for accreditation has not lapsed. Further, the bill deletes the responsibility of the board and, instead, requires the institution to be accredited or a recognized candidate for accreditation.

Your Committee notes that language which was inadvertently deleted from section 465-7, Hawaii Revised Statutes, by Act 95 has been replaced. Specifically, the language "meets the requirements set forth in paragraphs (1) and (2) or (3) and (4)" has been inserted following the word "applicant". As the law now stands, an applicant for licensure must meet all requirements of section 465-7, Hawaii Revised Statutes. The bill makes clear that each applicant must pass the examination, but that the prerequisite to the examination is professional competence and demonstrated knowledge in psychology and the holding of a doctoral degree from an approved program or the holding of a diplomate certificate from the American Board of Professional Psychology.

Your Committee is concerned with the fact that a number of state employees serve as clinical psychologists but are unlicensed in that capacity. This derogates from the philosophy and intent of legislation which seeks to ensure the quality of health care services available to the people of Hawaii. Your Committee urges all persons employed by state and county government in the practice of clinical psychology to obtain licenses, recalling that in the recent past it has expressed similar concern about speech pathologists and audiologists in government employ and moved to require their licensure.

Your Committee is cognizant that certain provisions contained in the bill have been opposed by practitioners of psychology in the community. However, your Committee finds that the measures provided for in this bill will expand the availability of qualified psychological services to the consumers of the State. All of these provisions have been adopted upon thorough review and extensive discussion and your Committee endorses the concept that practitioners of a contemporary profession such as psychology must be alert to new applications and concepts while respecting the established and traditional ones. To assume one source of ultimate knowledge is to preclude the possibility that new developments might render current practices inoperative.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2028-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2028-84, 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 and Soares.

SCRep. 503-84 (Majority) Ways and Means on H.B. No. 1906-84

The purpose of this bill is to appropriate \$373,000 to support certain state-wide agricultural activities.

Your Committee agrees with the Committee on Agriculture that continued state support for the nematode control research, commodity group research and pesticide education programs provided under this bill are necessary to increase the marketability of Hawaiian products.

Your Committee has amended the bill by reducing the appropriation for the study of managerial strategies to minimize the use of chemical nematicides on pineapples from \$195,000 to \$65,000 and the appropriation for research and development of nematicides and methods of nematicide application from \$140,000 to \$70,000. Such reductions provide for a total appropriation of \$173,000 in this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1906-84, 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. 1906-84, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 504-84 Ways and Means on H.B. No. 1727-84

The purpose of this bill is to allow the department of agriculture to collect fees to reasonably cover the cost of the inspection, sampling, and testing for adulteration of all animal feed, except feed for domestic pets.

Chapter 144, Hawaii Revised Statutes, allows the department to inspect, test, and sample animal feed for adulteration. However, the inspection fees currently provided for under chapter 144 do not equitably distribute the costs for conducting the program.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1727-84, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 505-84 Ways and Means on H.B. No. 271

The purposes of this bill are to make permanent the advisory committee for each state functional plan and to add to the duties of the advisory committee the rendering of advice and assistance in implementing, monitoring, and updating the functional plan.

Under the Hawaii State Planning Act, the advisory committee which provides assistance and advice on the formulation of each state functional plan is to terminate after adoption of the plan by the legislature. Your Committee, however, finds that formulation and adoption of a functional plan does not end the

planning process under the Act. What is done with the functional plan is just as important as adoption of the plan, if not more so. Proper and effective implementation, monitoring, and updating of the functional plan by the lead agency requires the assistance and advice of concerned experts and private citizens. Thus, your Committee finds that the advisory committee for each functional plan should be made permanent if another advisory body which meets the criteria under the Act is not already established.

Your Committee has amended the bill by clarifying the purpose section and making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 271, 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. 271, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 506-84 (Majority) Ways and Means on H.B. No. 1905-84

The purpose of this bill is to appropriate \$3,000,000 for sugar research and development; provided that the Hawaiian Sugar Planters' Association provides a dollar for dollar match of funds.

Your Committee agrees with the Committee on Agriculture that the research projects undertaken by the Hawaiian Sugar Planters' Association have resulted in increased sugar yields, improved irrigation techniques, and a reduction in the amount of chemicals needed to protect crops and that the continuation of such research will greatly benefit the State.

Your Committee has amended the bill by changing the amount of appropriation from \$3,000,000 to \$2,000,000.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1905-84, 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. 1905-84, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 507-84 (Majority) Ways and Means on H.B. No. 2402-84

The purpose of this bill is to extend the expiration date for the Department of Budget and Finance to issue special purpose revenue bonds assisting utilities serving the general public from June 30, 1984 to December 31, 1991.

Your Committee heard the companion bill on this matter S.B. No. 194884.

Act 15, Session Laws of Hawaii 1981, First Special Session, authorized the Department of Budget and Finance to issue special purpose revenue bonds during the period from July 1, 1981 through June 30, 1984 for capital improvement programs of four major utility companies in the State. The entire amount authorized has not been issued and will not be issued by the June 30, 1984 deadline.

Your Committee finds that an extension of the time for bond issuance under Act 15 is in the public interest as it will enhance the ability of the utilities to develop projects utilizing Hawaii's renewable energy resources, thereby reducing the State's dependence upon imported petroleum.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2402-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 508-84 Ways and Means on H.B. No. 1921-84

The purpose of this bill is to allow school priority fund instructional resource augmentation positions to be allotted to intermediate grades seven, eight, and nine.

Act 261, Session Laws of Hawaii 1982, established a school priority fund within the department of education. The fund serves to augment regular instruction and other educational services, at the discretion of individual schools. Each school may now to an extent plan, budget, and administer programs with greater authority and responsibility to satisfy its own unique needs.

However, Act 261 in this area only applies to elementary schools. This bill allows up to ten per cent of the instructional resource augmentation positions to be allotted to intermediate schools.

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. 1921-84, 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. 1921-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 509-84 (Majority) Ways and Means on H.B. No. 2527-84

The purpose of this bill is to provide additional flexibility for the banking industry regarding the use of deposited public funds.

Your Committee heard the companion bill on this subject S.B. No. 2093-84.

Your Committee finds that in recent years, the convergence of a rapid increase in the level of public deposits, a decline in the relative amount of investment securities as a percentage of total assets, and the dramatic increase in interest rate volatility have resulted in a situation where banks are required to purchase additional collateral to secure public deposits. This bill would provide banks with greater flexibility by allowing fifty per cent of the deposits held by a depository to be secured by assets of the depository which are eligible to secure advances from the Federal Reserve Banks under regulations of the Federal Reserve Board. Under this provision, banks will be able to take assets already on their books and put them to more productive use.

The financial marketplace is changing rapidly and new investment vehicles are constantly being created. By allowing for the pledging of types of collateral which are acceptable for securing borrowings from the Federal Reserve Bank, it will not be necessary for the governor and the director of finance to undertake lengthy investigations of each new financial instrument created since the Federal Reserve Bank already will have made such an investigation. Furthermore, the acceptance of additional types of safe collateral not now specifically covered under the law such as Federal Home Loan Mortgage Corporation or Fannie Mae participation certificates and bankers acceptances, for example, will provide a degree of diversification in the mix of collateral which is used to secure public deposits.

Your Committee believes that this bill will better enable the banking industry to meet the future borrowing requirements of the community while at the same time meeting the State's concerns about minimizing the risk of loss on deposits of public funds.

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 H.B. No. 2527-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2527-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 510-84 Ways and Means on H.B. No. 1956-84

The purpose of this bill is to limit the health benefits contributions by public employers for employee-beneficiaries who retire with at least five but less than ten years of credited service to one-half of the statutory amounts.

Currently, retired public employees make no contributions for health benefits coverage under the public employees health fund. Public employers are required to pay the entire contributions. The cost to public employers of health benefits contributions for retired public employees is increasing yearly, and has prompted legislative concern. This bill addresses the issue by reducing employer contributions for retired public employees who do not have many years of credited public service. Public employers are expected to save approximately \$142,000 annually under this bill. Your Committee finds that the savings in public moneys from this bill are necessary and will be accomplished in a reasonable manner.

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. 1956-84, 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. 1956-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 511-84 Ways and Means on H.B. No. 1976-84

The purpose of this bill is to appropriate \$35,000 to supplement prior appropriations for the maintenance of current patient hours in the Patient Employment Program of the Hansen's Disease Program within the Department of Health.

Your Committee finds that the department needs this appropriation to continue the Patient Employment Program through the fiscal year ending June 30, 1984.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1976-84, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee, except Senator Solomon.

SCRep. 512-84 Ways and Means on H.B. No. 2294-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$5,000,000 to assist Kuakini Medical Center.

Your Committee heard the companion bill on this matter S.B. No. 2241-84.

Your Committee finds that Kuakini Medical Center is a vital contributor to health and medical education in Hawaii as well as a leader in serving the health care needs of Hawaii's population. Your Committee believes that this bill will result in considerable cost savings to both government and private consumers of health care.

Your Committee has amended the bill in the following manner. A provision has been added authorizing the department of budget and finance to issue refunding special purpose revenue bonds to refund bonds issued under this bill. Your Committee finds that this authorization may result in further cost savings to Kuakini Medical Center if the interest rate on the refunding bonds are lower than the rate on the bonds of the original issue. Language has been rearranged in and added to section 3 of the bill for nonsubstantive clarification purposes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2294-84, 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. 2294-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 513-84 (Majority) Ways and Means on H.B. No. 2612-84

The purpose of this bill is to delegate to the office of environmental quality control (OEQC), for the interim period of one year, the additional and specific responsibility of coordinating an integrated statewide pesticide policy. In addition, the bill establishes a technical advisory committee to be appointed by the governor to assist and advise the OEQC in carrying out and effectuating

this responsibility. It also requires the Department of Agriculture to notify the OEQC whenever an application is made to the federal Environmental Protection Agency for a pesticide registration exemption in Hawaii.

Your Committee finds that state responsibilities with respect to the regulation, monitoring, and enforcement of pesticides, and the maintenance of environmental quality are dispersed among several state and county agencies. As a result, timely and coordinated action with respect to pesticide contamination problems often has been hindered. Your Committee finds that a single agency should coordinate the pesticide management activities of all state agencies involved in pesticide management or environmental quality.

Section 5 of the bill appropriates \$160,000 or so much thereof as may be necessary for fiscal year 1984-1985 to carry out the purposes of the bill.

Your Committee has amended section 4 of the new chapter by deleting the provision authorizing the director of environmental quality control to fill existing planner positions and to convert an analyst position to a planner position since the chapter is to be repealed on June 30, 1985. Your Committee has further amended this bill to provide that any staff hired pursuant to this Act shall be temporary and their employment shall be terminated on June 30, 1985. Your Committee also amended this bill by including a repeal date for the entire Act. Your Committee has made grammatical and language changes throughout the bill for purposes of clarity and has made other technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2612-84, 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. 2612-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 514-84 (Majority) Ways and Means on H.B. No. 1811-84

The purpose of this bill is to provide the University of Hawaii with the flexibility to grant waivers of the nonresident tuition differential on the basis of a comprehensive educational rationale consistent with its mission, rather than solely on the basis of the country of origin of the student and the tuition practices there.

Under present law, the nonresident tuition differential is not applicable to a student from any district, state, nation, or jurisdiction which does not have public institutions of higher learning. This bill limits the nonresident student differential non-applicability to only students from Pacific and Asian jurisdictions which do not have public institutions of higher learning. This limitation is consistent with the University's special mission in serving the Pacific and Asian regions.

Additionally, this bill waives the nonresident tuition differential for all East-West student grantees pursuing a baccalaureate or advanced degree at the University since the educational rationale and goals of the East-West Center are consistent with those of the University.

The concern posed by the current limitation on the granting of nonresident student tuition differential waivers to students whose countries have a reciprocal waiver agreement with the University is remedied by allowing the Board to waive the nonresident tuition differential for those foreign students whose presence at the University of Hawaii would be beneficial to the school and the State, thus ensuring that educational and cultural benefits to the University and the State is the basis for granting tuition waivers.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1811-84, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 515-84 Ways and Means on H.B. No. 1940-84

The purpose of this bill is to increase the amount of funds deposited annually into the University of Hawaii research and training revolving fund and to provide additional advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects.

Your Committee heard the companion bill on this matter S.B. No. 1844-84.

The current limit on funds deposited into the research and training revolving fund is an annual amount of \$1,000,000. This bill establishes the limit at thirty per cent of all income generated from overhead receipts, with the remainder to be deposited into the state general fund. Translated into dollars this new limit amounts to approximately \$2,000,000 annually for support of various University research and training activities, allowing the University to remain competitive with other institutions in attracting research funds by providing appropriate reinvestments of overhead in personnel and equipment, incentives to established researchers, and seed money to assist younger faculty in seeking federal support for their research.

This bill also creates a permanent new account of \$2,500,000 to be used to provide advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects.

Your Committee finds that, under the federal reimbursable cost system, the University first must incur expenses and then bill the federal government for reimbursement, a process that takes ten to twelve weeks. Section 304-10, Hawaii Revised Statutes, provides for cash advances to the University for such reimbursable costs up to an aggregate amount not to exceed \$100,000. Allowing an increase in cash advances up to \$2,500,000 through the creation of a new account is of utmost importance to the University in that it provides working capital necessary to attract and receive federal dollars in support of research and training projects.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1940-84, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 516-84 Ways and Means on H.B. No. 2169-84

The purpose of this bill is to authorize the governor to request, pursuant to section 103(e) of the Internal Revenue Code, the organization and operation of the Hawaii Educational Loan Marketing Corporation (HELMAC) as a private nonprofit corporation to be affiliated with the United Student Aid Funds, Inc., for the purpose of acquiring educational loan notes incurred under the federal Higher Education Act of 1965 to provide a secondary market for student loans.

Costs related to post-secondary education are increasingly burdensome and it is important that students be provided continuing access to adequate sources of low-interest loans under the guaranteed loan programs of the Higher Education Act of 1965. Also, currently there is a need to provide liquidity for lending institutions making student loans in Hawaii. Due to the unique nature of student loans many lending institutions find illiquidity a problem. This bill would alleviate the problem by allowing a nonprofit corporation to purchase student loan contracts from lending institutions, thus releasing more money for student loans.

Your Committee finds that the establishment of a local private nonprofit corporation, organized and operated for the exclusive purpose of acquiring educational loan notes is in the public interest and would serve to benefit both students and the lending community in Hawaii.

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. 2169-84, 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. 2169-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 517-84 Ways and Means on H.B. No. 183

The purpose of this bill is to provide for the inclusion of one-third of the distribution from an individual housing account used to purchase a first principal residence in the individual's gross income for the taxable year of the sale of the residence and for two years thereafter.

Your Committee finds that in order to accomplish the purpose and policies of the law on individual housing accounts, this bill must be amended.

Testimony submitted clearly indicated that inclusion of any amount of the distribution in the year of sale ignores many real problems and indicates a failure to understand the difference between individual housing accounts and individual retirement accounts. The following example and discussion will serve to illustrate those problems.

Based upon the assumption that an individual purchases the first principal residence at age 30 and sells the residence after 15 years, a common practice in today's upwardly mobile society, the following will occur. First, the bookkeeping problems for the individual are not too difficult. The individual only has to remember the amount of the distribution and start reporting it upon sale of the residence. This, of course, assumes that the individual keeps good records and that the individual is honest. The administrative problems for the department of taxation, however, may well be an administrative nightmare, i.e., keeping track of the number of individuals who had these accounts and the subsequent tracking of the sales of these residences. The longer an individual retains the first principal residence the more the bookkeeping, tracking, and enforcement problems are for the department of taxation. Even the 15 years used in this example will cause many problems, since if the department is to enforce reporting it must be aware of housing sales and if a particular house is sold whether or not it was purchased through an individual housing account.

Secondly, unlike the individual retirement account, the distribution of which generally occurs when an individual's income is reduced due to retirement, the sale of a residence is not contingent upon reduced income. In our example, the individual will be 45 years old and likely at the height of the individual's earning power. If, however, the distribution is taxed upon its distribution the individual will be 30 years old and most probably at a lower income bracket. The three-year reporting period will reduce the addition to gross income to less than \$9,000 for an individual. The closing costs, interest, and real property taxes paid in the first and following years will offset the inclusion of this lump sum in the individual's gross income down to zero or less depending upon the time of year in which the purchase occurs.

Your Committee strongly agrees with your Committee on Housing and Urban Development regarding the improper imposition of a penalty on the honest use of these accounts in order to discourage the unlikely few who may use these accounts for speculative activity.

A review of the Minnesota statute upon which this statute is based indicates that Minnesota imposes no penalty for proper use of these accounts and it taxes the distribution in the year distributed.

Your Committee finds that the result of taxing the distribution at the time of sale of a residence results in unnecessary administrative headaches and sets an income tax trap for the unwary which is almost impossible to avoid. In fact the income tax trap makes the use of these accounts very unwise. Your Committee has amended the bill to provide that the distribution will be taxed upon the use of the distribution for the purchase of the first principal residence.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 183, 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. 183, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 518-84 Ways and Means on H.B. No. 1120

The purpose of this bill is to provide for the funding of loan services and delinquent loan collection activities in the Department of Hawaiian Home Lands

through revenues from its interest fund.

Your Committee finds that revenues in the Hawaiian home interest fund have greatly increased in recent years from interest received through the investment of idle cash from loan funds and loans to the department's lessees and from increased delinquent loan collection activities. The Hawaiian home administration account which receives revenues from the leasing of available lands has financed staff salaries and administrative expenses from loan services and delinquent loan collections; however, the administration account is insufficient to meet these demands.

Your Committee believes that increased staffing is necessary to accommodate the increased activity in new loans and delinquent loan collections. Your Committee also believes that the proposal in this bill to transfer moneys from the interest fund to the administration account to fund additional staff is sound. This transfer will create a reliable revenue source for the department to effectively manage its loan program.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1120, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 519-84 Ways and Means on H.B. No. 1431

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

Your Committee heard the companion bill on this subject, S.B. No. 1925-84.

Your Committee finds that tax increment financing is an innovative method of financing public improvements in redevelopment areas. This method relies on public improvements generating private development which results in substantially increasing the real property taxes generated from the district which then are used to repay the tax increment bonds issued to finance the public improvements as well as other project costs.

Your Committee has amended this bill to allow the Hawaii Community Development Authority, as well as the county redevelopment agencies, to request the establishment of a tax increment district, and made other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1431, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1431, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 520-84 Ways and Means on H.B. No. 1749-84

The purpose of this bill is to eliminate mandatory retirement ages from employment in the public and private sectors.

Your Committee finds that current law imposes a mandatory retirement age of seventy years for public employees and allows private employers to establish a mandatory retirement age. This bill eliminates mandatory retirement ages in recognition of the fact that chronological age by itself is not a reliable indicator of an individual's ability to continue working.

Your Committee has amended the bill by replacing the phrase "a subterfuge" with "intended" on page 5, line 21, of the bill, as received. Your Committee finds that the new language is more appropriate. In addition, the other language proposed to be added to section 378-3(4), Hawaii Revised Statutes, has been amended for clarification purposes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1749-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1749-84, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Solomon.

SCRep. 521-84 Ways and Means on H.B. No. 1751-84

The purpose of this bill is to authorize the Hawaii Career Information Delivery System, better known as Career Kokua in the Department of Labor and Industrial Relations (DLIR), to share occupational and career information pertaining to Hawaii with other information systems, states, counties, territories, and private entities on a cost reimbursement basis.

Currently, approximately \$48,000 is payable to the program from the Pacific Occupational Information project, other counties, and private agencies. The program presently lacks the statutory authority to receive and expend such funds. Your Committee finds that this bill will enhance Hawaii's leadership role in the Pacific and elsewhere and will enable Career Kokua to enjoy a greater benefit from its activities.

This bill establishes a temporary special fund for the period July 1, 1984 to June 30, 1985 into which all funds received by the DLIR for sharing occupational and career information or technical assistance is to be deposited and from which the DLIR is authorized to expend moneys for the purpose of sharing information or technical assistance.

Your Committee has added language to the purpose clause for greater clarity and has made other technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1751-84, 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. 1751-84, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 522-84 Ways and Means on H.B. No. 2406-84

The purpose of this bill is to establish a permanent job-sharing program within the department of education.

Act 150, Session Laws of Hawaii, Regular Session 1978, as amended, established a voluntary job-sharing pilot project for teachers in the department of education. The project has proven to be successful in two ways. First, it creates a higher degree of employee satisfaction by enabling the participants to pursue both personal and professional goals. Secondly, it allows the State to utilize the talents and resources of two individuals at a cost-savings to the State.

Your Committee has amended the bill by making technical changes in the form to assist in future amendment of the section. They have no substantive effect.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2406-84, 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. 2406-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 523-84 Ways and Means on H.B. No. 2407-84

The purpose of this bill is to extend the job sharing pilot project for librarians for an additional two years and to allow library assistants and library technicians to participate in the project.

Act 139, Session Laws of Hawaii 1982, established a voluntary job-sharing pilot project for full-time librarians in the public library system. This project has proven to be successful in two ways. First, it creates a higher degree of employee satisfaction by enabling the participants to pursue both personal and professional goals. Secondly, it allows the State to utilize the talents and resources of two individuals at a cost-savings to the State.

Your Committee notes that the Legislative Auditor in Report No. 84-15, February 1984, recommended that "job sharing be allowed on a permanent basis in

the public library system and that the job sharing opportunities be extended beyond public librarians to library technicians, library assistants, and other library personnel."

Your Committee has amended the bill by deleting the purpose section as unnecessary and to require the office of the legislative auditor to submit a status report of the project to the legislature in the regular session of 1986.

Your Committee also amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2407-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2407-84, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Solomon.

SCRep. 524-84 (Majority) Ways and Means 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.

Your Committee finds that the Legislature authorized a second law clerk for intermediate appellate judges during the 1982 session; however, the bill was vetoed because it contained an appropriation and was passed before the supplemental budget bill.

Your Committee notes that additional law clerks for the intermediate appellate court will decrease the time in which written court decisions can be issued, thus allowing more expeditious processing of cases. 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 no law clerks for any of the district judges at present.

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 H.B. No. 791, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 791, S.D. 2.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 525-84 Ways and Means on H.B. No. 847

The purpose of this bill is to amend section 294-35.5, Hawaii Revised Statutes, to provide that insurer fees assessed for the purpose of driver education be increased from \$1 to \$1.50 per insurance policy on each insured vehicle.

Your Committee finds that the driver education program has proven to be of great benefit to the motoring public and therefore, it is worthy of being supported.

Your Committee has amended this bill by reducing the insurer fees assessed to \$1.25, and by changing the fifty-fifty ratio to provide that forty per cent of the fees in the special driver's education fund is allocated to the insurance commissioner and that sixty per cent is allocated to the superintendent of education.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 847, 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. 847, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 526-84 Ways and Means on H.B. No. 1950-84

The purpose of this bill is to: (1) provide that the applicant has the right

to appeal an order or decision of the commission on the ground that the order or decision was arbitrary and capricious; (2) provide that appeals be made to the circuit court rather than the supreme court; (3) allow payment of compensation to any relative of any victim if such relative has incurred expenses as a result of the victim's injury and death; and (4) repeal the provision allowing compensation for pain and suffering.

Your Committee agrees that applicants should be allowed to appeal decisions on the ground that the Commission exceeded its jurisdiction or that an award was arbitrary and capricious. Your Committee further agrees that appeals should be filed with the circuit court rather than the supreme court.

This bill will expand the class of persons to whom the Commission may order payment if such person has incurred expenses as a result of the victim's injury and death by allowing such payment to any relative rather than to just a parent of an adult deceased victim, or to an adult son or daughter of a deceased victim. Your Committee finds that there is no justifiable reason to include as eligible for reimbursement only the few relatives specified in the present statute.

Finally, your Committee concurs with 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. 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.

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 has amended this bill by making grammatical changes to clarify that there are two alternative grounds upon which an appeal may be based. Your Committee has made another technical, nonsubstantive amendment to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1950-84, 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. 1950-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 527-84 Ways and Means on H.B. No. 2002-84

The purpose of this bill is to exempt from civil service one bailiff for the chief justice of the supreme court. The bill also provides the bailiff with the powers and duties of a "court officer and bailiff" under section 606-14, Hawaii Revised Statutes.

The bailiff for the chief justice is under the direct supervision of the chief justice, performs the function of bailiff in the courtroom, and provides personal and security services for the chief justice. Your Committee finds that the position should be exempt from civil service because of the long and irregular hours required to be worked and the sensitivity of the personal services performed for the chief justice.

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. 2002-84, 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. 2002-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 528-84 Ways and Means on H.B. No. 2320-84

The purpose of this bill is to amend chapter 843, Hawaii Revised Statutes, relating to the Hawaii Crime Commission and to allocate \$302,000 for the fiscal year 1984-85 to operate the Commission. These funds will be expended through the office of the lieutenant governor.

Among the major changes this bill makes to chapter 843, Hawaii Revised Statutes, are: (1) changing of the name of the Commission from the Hawaii Crime Commission to the Hawaii Criminal Justice Commission; (2) establishing the new Commission from July 1, 1985 to June 30, 1988 and providing for the continuance of the present commission during the interim period; and (3) restating the functions of the Commission by consolidating the present varied functions and focusing on two specific yet flexible functions.

There is much concern and misconception about the operation of the criminal justice system. The proposed changes would allow the Commission to focus on these concerns and misconceptions and contribute to the improvement and understanding of our system of justice.

The bill retains the provisions dealing with the unauthorized disclosure of confidential information or matter acquired by the Commission. Although the present staff does not intend to gather criminal intelligence information, there is still confidential information gathered during the course of a study. Thus the present statute is necessary to protect against the unauthorized disclosure of that information and the information and matters that have been previously gathered by the Commission staff.

Your Committee agrees with the Committee on Judiciary that there is a need for a Commission which studies problem areas within, and develops public education programs relating to, the criminal justice system. The Commission's independent status and citizen commissioners will allow it to address areas of concern to our community and to provide objective input for the benefit of the citizenry.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2320-84, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 529-84 (Majority) Ways and Means on H.B. No. 1828-84

The purposes of this bill are to clarify the definition of "special facilities", change the maximum amount of special facility revenue bonds that can be issued from \$20,000,000 to \$50,000,000, and extend the issuance date from June 30, 1983 to June 30, 1987.

Currently, the definition of "special facility" in section 266-51, Hawaii Revised Statutes, is not clear as to whether the processing and canning of fish and fish products falls within the definition. This bill would clarify the statute by specifically including those activities within the scope of the definition.

Your Committee has amended this bill to provide that the land on which a special facility is constructed or improved must be designated for maritime and marine operations, as well as owned by the State. Other technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1828-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1828-84, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 530-84 Ways and Means on H.B. No. 2486-84

The purpose of this bill is to allow the counties to increase revenue for highway beautification and to cover the cost of removing abandoned vehicles.

Currently section 286-51, Hawaii Revised Statutes, limits an additional fee for certificates of registration to not more than 50 cents per certificate. The city and county collect approximately \$200,000 annually at the established rate of 50 cents. This amount is not enough to meet highway beautification requirements as well as for disposal of abandoned vehicles. This bill retains the existing statutory scheme under section 286-51, Hawaii Revised Statutes, except it increases the maximum fees charged per certificate to \$1 and expands the use of the fees to include the beautification of all county highways.

Your Committee has amended the bill by deleting the \$1 maximum and allowing the various county legislative bodies to establish respective additional fees of an unlimited amount.

Your Committee 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. 2486-84, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2486-84, H.D. 2, S.D. 1.

Signed by all members of the Committee except Senator Solomon.

SCRep. 531-84 Ways and Means on H.B. No. 1807-84

The purpose of this bill is to (1) clarify the term executor in the definition of personal representative, and (2) clarify who is not considered to have possession, custody, or control of a decedent's estate.

Your Committee heard the companion bill on this subject S.B. No. 1580-84.

The Hawaii Estate and Transfer Tax Law currently defines a "personal representative" to be only those who are court-appointed. Under this definition, persons can conceivably claim they are not personal representatives if they obtained possession, custody, or control of a decedent's estate as surviving joint tenants or contract successors, and not as court-appointed representatives of an estate. If that is the case, those persons can avoid the duties of a personal representative, including responsibility for the payment of the estate's tax liability. To avoid this result, persons should be considered personal representatives and therefore be responsible for an estate's taxes, if they are in possession, custody, or control of a decedent's estate, irrespective of whether they are or are not court-appointed representatives of the estate. This result is achieved by incorporating into the Hawaii Estate Tax law the definition of executor from the Internal Revenue Code.

A further amendment to the Hawaii Estate Tax law excludes mortgagees and pledgees from those persons not considered to be in possession, custody, or control of a decedent's estate.

Your Committee also 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. 1807-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1807-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 532-84 Ways and Means on H.B. No. 1873-84

The purpose of this bill is to amend Act 277, Session Laws of Hawaii 1980, relating to the general fund expenditure ceiling, by extending the sunset provision in section 5 of that Act to June 30, 1988, to change the method of establishing state growth, and to require the council on revenues to prepare

estimates of state growth for any year with the latest version of the total personal income series.

Your Committee heard the companion bill on this matter S.B. No. 1788-84.

Your Committee finds that the general fund expenditure ceiling has been with the State for four years and that two fiscal bienniums have been subject to the ceiling. During this period appropriations have been kept under the ceiling and no better measure of the ceiling has been found than total state personal income. Therefore, your Committee has amended the bill to delete the sunset provision entirely.

Your Committee agrees with the Department of Budget and Finance that certain problems which have arisen in using the expenditure ceiling provisions should be taken care of at this time.

Therefore, your Committee has amended the bill by adding provisions to provide that when the total state personal income series is revised by the United States Department of Commerce, Bureau of Economic Analysis, the calculation of state growth and expenditure ceiling shall be made on the most recent available data and that the ceiling be recalculated back to the base year 1978-1979. Your Committee has provided that if such recalculation results in an expenditure ceiling for a prior year being lower than the appropriations in that year, such result shall not invalidate any prior appropriations.

Your Committee also has amended the provisions on the council of revenues estimates to provide that the council shall provide estimates of the total state personal income for the current and next succeeding calendar year when necessary. Your Committee finds that to require estimates for any year in the future is not realistic and the council should only be required to make an estimate for the current and the next succeeding calendar year when necessary. This requirement will greatly assist in the preparation of the biennial budget as a calculation of the expenditure ceiling is necessary for both years of the biennium. Your Committee notes that this estimate is just that, an estimate, and will apparently be based on less solid data than the data used by the council on revenues to project revenues.

Your Committee does not agree with the change in determining the state growth from a three-year average to the highest percentage change in a three-year period. This methodology will result in unwieldy swings in the expenditure ceiling which is why a three-year average is presently being used. Your Committee finds that extensive study was made by the executive branch and the legislature to determine the most beneficial method of determining the expenditure ceiling. That study resulted in the use of a three-year average in order to offset exceedingly high years and exceedingly low years. Your Committee is satisfied that the decision to use a three-year average is still valid.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1873-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1873-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 533-84 Ways and Means on H.B. No. 1874-84

The purpose of this bill is to authorize the issuance of general obligation bonds and to declare findings that the total amount of principal and interest estimated for such bonds and all bonds authorized but unissued and calculated for all bonds issued and outstanding will not cause the debt limit to be exceeded at the time of issuance.

This bill is intended to meet the requirement of Article VII, section 13, of the Constitution of the State of Hawaii. The constitutional provision requires the legislature to include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the debt limit will not be exceeded upon the issuance of bonds authorized by the law and in the past.

Your Committee has amended section 3 of the bill by inserting "H.B. No. 1640-84, H.B. No. 2092-84, and S.B. No. 1846-84" after the first part of the second sentence which reads "General obligation bonds may be issued as

provided by law to yield the amount that may be necessary to finance projects authorized in".

Amounts in the bill have been left blank since the precise data or best estimates are not known at this time. It is the intent of your Committee that such amounts will be inserted in conference committee when they become known.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1874-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1874-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 534-84 Ways and Means on H.B. No. 1640-84

The purpose of this Supplemental Appropriations Bill of 1984 is to amend the General Appropriations Act of 1983, which appropriates funds for the 1983-85 fiscal biennium.

FINANCIAL AND BUDGETARY OVERVIEW

The overall financial considerations which have guided the formulation of the supplemental appropriations bill are similar to those which affected the general appropriations act and other appropriation measures which were enacted in 1983 for the current biennium. These considerations include the sluggish growth of general fund tax revenues, the uncertain final disposition of tax collections under litigation, and the condition during the past several years of current expenditures exceeding current resources, which has caused the general fund balance to decline significantly each year since the all-time high of \$231 million at the end of FY 1980-81.

There is, however, some room for cautious optimism with respect to both revenues and expenditures. The March 1984 estimates of the Council on Revenues confirmed the council's January 1984 estimates for FY 1983-84 that the expected growth in general fund tax revenues will be 7 percent, instead of the 6 percent which was previously forecasted. This means an anticipated improvement of some \$13 million from the general fund tax revenue estimates shown for FY 1983-84 in the state administration's supplemental budget, which was submitted to the Legislature in December, and an increase of about \$12 million for FY 1984-85.

On the expenditure side, the administration's expenditure controls are expected to continue to generate some savings. Just as important, big money programs are not expected now to consume as much general fund resources as was previously feared. Slight improvements in the long-term tax exempt borrowing market have enabled the State to realize interest savings and lower its debt service costs for recent general obligation bond issues. The very large deficit previously anticipated by the state administration for the medical assistance program has not materialized, and it now appears that the program can be conducted under current appropriations. Also, general fund expenditures for the Department of Education's regular instruction program, the largest budget category in the entire state budget, are expected to be less than what was appropriated for FY 1984-85 because of a higher than anticipated increase in federal impact aid funds.

Thus, the slight improvement in revenues and the savings which are expected to be realized from some expenditures running below current appropriations have enabled selective, additional program appropriations to be made, some of which are basically to continue the existing level of service. Perhaps, the greatest and broadest demand this session is for funds to continue the programs in FY 1984-85 of those private health and human service agencies which had been funded only for FY 1983-84. In making its supplemental budget decisions, your Committee has taken into account the needs and program merits of the private agencies, the recommendations of the state administration, and has reviewed and culled out other worthy appropriation requests for inclusion in this bill.

In the remainder of this report, your Committee expresses its concerns and intent and reviews some of the program and appropriation decisions which have been made in this bill and in other bills which affect state revenues and the

budget.

PREVENTION SERVICES

In reviewing the numerous appropriation requests, including those requests for social service and mental health programs of private agencies, it was evident to your Committee that the costs of treating socially deviant behavior is extremely high. Significantly large state resources are being applied toward the criminal justice system, the incarceration of criminals, the treatment of victims and perpetrators of child abuse and neglect, and the provision of other social services.

Your Committee believes that the large costs being borne directly by government, private agencies dependent on government support, other organizations, and society as a whole can be controlled if there are adequate prevention programs. Such programs require the identification of factors and problems which may lead to deviant behavior and ways to prevent the development of such behavior. The focus of prevention services is on children and parents, and they require a range of services beyond that which is provided by customary social services.

Some prevention services are currently being provided by state as well as private agencies. Yet, an overall plan for the development and provision of such services is lacking. The issue is so important that your Committee developed a separate measure (S. B. No. 1759-84, S.D. 1) to establish a comprehensive program for the prevention of the development of mental health disorders and psychosocial and family problems.

The Department of Health will be responsible for developing a comprehensive plan and program for prevention services, with the advice of the Department of Social Services and Housing, the Department of Education, and private social services organizations. It is expected that the plan will be comprehensive to the extent that every community will have access to services as they relate to the rearing of children. The plan is also to cover disabled and disadvantaged children with an emphasis on programs to develop and reinforce positive self-image in these children. Another outcome of the plan is that it is expected to provide for more effective use of purchases of service from private agencies so that there can be broadened coverage of services to help families. Additionally, the plan is to identify how other agencies not dependent on state funds can be more fully utilized in the provision of their services.

The measure to establish a comprehensive program for prevention services has been complemented in the supplemental appropriations bill with funds for numerous purchases of services of prevention programs to be conducted by private agencies. In addition, another separate measure (H.B. No. 2257-84, H.D. 2, S.D. 1) was amended to require the Department of Health to serve as the lead agency for programs which provide for a coordinated range of child abuse and neglect prevention services. This measure is similar to the forementioned S.B. 1759-84, S.D. 1, but also establishes a secondary prevention advisory committee comprised of members of public and private social services agencies which provide multidisciplinary intervention services for the secondary prevention of child abuse and neglect. Your Committee strongly feels that the advice of these various experts is essential in implementation of secondary prevention programs.

Furthermore, funds have been included to continue the second phase of the Youth Development Project: Preventive Intervention in Delinquency being conducted by the Youth Development and Research Center of the School of Social Work, University of Hawaii-Manoa. Located in Hilo, the first phase of the project involved the identification of factors which forecast delinquency. The second phase will involve actual preventive intervention, including social survival skills training in elementary classrooms, student team learning, and strengthening community ties through community liaison. The project is expected to provide reliable information on indicators which forecast possibilities of delinquency and greater knowledge of the prevention strategies that work. These results are expected to provide guidance and direction for prevention programs in other communities.

PURCHASES OF SERVICE

In the 1983 General Appropriations Act, the Legislature funded the programs

of numerous private agencies in a "Grants-in-Aid" section of the act, as it had done in a number of previous years. These 1983 appropriations were for FY 1983-84 only. In developing the supplemental budget and under the administration's constraint that state agencies could make supplemental appropriation recommendations only by trading off funds for existing programs and adhering to the level of appropriations already made, virtually none of the funding requests of the private agencies for FY 1984-85 were recommended by the departments or included in the supplemental budget submitted by the Governor. Consequently, your Committee was once again confronted with a broad range of funding requests.

Earlier, your Committee reviewed the requirements and process of Chapter 42, HRS, relating to grants, subsidies and purchases of service. To clarify the Chapter 42 requirements and to make the process more effective and workable, the Senate has sent to the House of Representatives Senate Bill No. 2209-84, S.D. 2, and your Committee has, in its internal approach, followed the guidelines of that bill.

The most basic change that your Committee has made from prior practices is to treat the appropriations for private agencies as purchases of service (POS) rather than as "grants-in-aid", where it is clear that the private agencies' programs are part of and serve the purpose of government programs. Following this approach, the departments which will administer the various purchases of service will be expected to evaluate the POS programs, and the Department of Budget and Finance is to take these POS programs into account in establishing financial ceilings for the next biennial budget. Where POS programs, previously funded as "grants-in-aid", are found to be worthy of continuation as ongoing parts of state programs, they are to be incorporated into the departments' operating budget requests, in the same way that the departments budget for some of their existing purchases of service.

All told, your Committee has provided funds for over a hundred POS programs in the aggregate amount of \$7,052,903.

ECONOMIC DEVELOPMENT

Agriculture. Despite the decline of canning operations, pineapple is still one of the State's largest industries and a vital factor in Hawaii's economy. Your Committee has recommended another year's funding for the promotion of pineapple in Canada and the continental United States and has expanded the scope of the original promotion to include the midwestern states. The promotion of pineapple will also continue to have the indirect beneficial effect of promoting the State of Hawaii as a whole.

To stimulate the development of new agricultural products and new technology for agriculture, funds have been provided to replenish the Agricultural Products Revolving Fund. The aim is to keep the revolving fund at a viable level so as to have funds available to encourage private investment in new agricultural ventures.

Your Committee continues to view the agricultural park as a promising means to diversify and expand Hawaii's agricultural base. Accordingly, \$1.2 million has been reappropriated for the development of Waianae Agricultural Park and the appropriation for Molokai's Agricultural Parks has been increased to \$600,000.

In addition to providing additional funds for agricultural development and promotion, funds are included for research on a webworm biological control project. Webworms are a threat to the cattle industry with the capacity of destroying acres of grazing lands in a matter of days. Soil erosion occurs, and trucking cattle to other grazing areas involves additional costs. Nematodes also continue to be a stubborn and significant problem, and in response, your Committee has provided funds for additional nematode detection equipment for the Nursery Certification Program on the Big Island.

In a separate measure to shore up the papaya industry, special purpose revenue bonds in the amount of \$3,500,000 have been authorized to enable Hawaiian Agronomic Process to construct an irradiation facility. Because ethylene dibromide (EDB) has been banned except for use on fruits and even that exception is due to expire in September 1984, an alternative means must be found to treat papayas for fruit flies. Irradiation appears to be the best alter-

native at this time.

Tourism. Funds have been provided to mount a special effort to promote Molokai as a visitor destination area. Not only will the promotion focus on attracting tourists to Molokai, but it will also be geared to encourage more Hawaii residents to visit the Friendly Isle. The natural beauty and historical significance of Kalaupapa will be promoted under a 50 percent matching basis with private industry and the County of Maui.

Your Committee continues to support the City and County of Honolulu's program to upgrade Waikiki as the State's main visitor destination area. A total of \$4.8 million has been authorized to widen and landscape sidewalk areas bordering Kalakaua Avenue.

There has been substantial interest in developing Hawaii as a major convention center. On a related front, there has also been interest in developing Hawaii as the insurance center of the Pacific. While both types of development appear to hold promise, your Committee believes that more analysis of these possible developments needs to be conducted, and therefore, it has provided funds for the necessary studies to be conducted.

High Technology. In 1983, legislation was enacted to establish the High Technology Development Corporation. The new entity was formed to develop industrial parks for high technology enterprises and to assist in the construction of high technology facilities through the issuance of special purpose revenue bonds. The Corporation is being moved to full operational status through funds for personnel and other operating expenses, and the expectation is that it will soon fulfill the active economic development role for which it was established.

EMPLOYMENT

In 1983, the Legislature established the occupational and career information program to develop and deliver occupational information on a statewide basis with the information to be used for employment, training, education and career planning. The program will now be allowed to collect user fees from major organizations, with the funds to be applied to expand the information program.

With the rising unemployment rate there should be activities to help the public minimize this evil. Your Committee recommended that the department conduct a series of employment conference activities in order to alert the residents of Hawaii of possible employment practices and opportunities.

ENVIRONMENTAL PROTECTION

Geothermal. Act 296, SLH 1983, established policy for the location of geothermal development and sought to balance energy development interests with interests in preserving Hawaii's unique social and natural environment. As part of the steps to implement the Act, a permanent geologist position and funds have been provided. Your Committee believes that geothermal development is so important that the State must begin to acquire a core of experts in geothermal energy, rather than continuously having to contract with and rely on outside consultants.

Desalinization Plant. The problems that Oahu has experienced with the potable water supply underscores the consideration that water resources cannot be taken for granted and if feasible, alternative sources of water should be developed. Technology has made desalinization practical in some parts of the world, although in the past, it was believed to be too costly for Hawaii. The time is appropriate to review again the feasibility of desalinization, including the analysis of whether new technologies could make desalinization cost effective. Toward that end, the sum of \$100,000 has been provided to conduct a study whether a desalinization plant is feasible in Hawaii.

TRANSPORTATION

Funds have been authorized to proceed with the construction of Interstate Route H-3, from the H-1 junction to the Kaneohe Marine Corps Air Station. Funding has also been authorized for several other transportation projects deemed to be of a high priority. These include the expansion of Kahului Airport; improvements to the Aloha Tower complex; replacement of the Honolulu

Harbor fireboat; design of the Waiaka Stream bridge in Waimea, Hawaii; and a feasibility study of alternative sites for general aviation airports.

HEALTH

Mental Health. Your Committee has recognized the continuing need of the Mental Health Division of the Department of Health to provide appropriate services for their wide range of clients. Moreover, the Committee has determined that eligible private provider services shall be acquired and conducted through purchase of service contracts. Your Committee has also continued the additional appropriation of \$2.1 million to provide necessary mental health services. In addition, your Committee has provided \$29,000 for the planning of a balanced mental health service system for the State of Hawaii.

Child Abuse. In recognition of the role of the Department of Health in the prevention of child abuse and neglect and the numerous state, county, and private agencies providing child abuse and neglect services, your Committee has provided funds for a coordinator of child abuse and neglect in the Community Based Services for Mental Health Program.

Kalaupapa. The sum of \$35,000 has been appropriated to supplement the patient-employment program at Kalaupapa in order that these employees will continue to have equity in pay with other government employees in the State.

The Fragile Elderly. Your Committee was briefed on the merits of a pilot project, the Case Management and Coordination Program for the Fragile Elderly in the County of Hawaii. This program has saved the State welfare and medical costs through the services provided by public health nurses in Hawaii County. Your Committee has provided for two Professional Registered Nurse IV temporary positions, one each for Maui and Kauai, to develop and implement a pilot program similar to the program started on Hawaii to provide services to the fragile elderly.

Emergency Ambulance Service. Recognizing the need to upgrade ambulance equipment for Honokaa Hospital so that more efficient emergency medical service can be provided to the residents of Honokaa and surrounding communities, your Committee has provided funds to replace the old outdated ambulance at this hospital.

Waianae Coast Comprehensive Center. Your Committee has recognized the Waianae Coast Comprehensive Center's need for a reliable back-up generator for smooth and continuing operations in times of power disruptions and failures. Funds have been provided for the center to purchase and install a 75 KV back-up generator.

Hilo Hospital. Construction of the new Hilo Hospital is expected to be completed well ahead of its original completion date of December 1984. Consequently, the new hospital needs to have equipment installed much earlier than was previously anticipated. To assure the timely installation of equipment and to avoid any lost time in making the hospital operational, the Governor has recommended that funds for Hilo Hospital be accorded priority status. Accordingly, \$2.7 million is being appropriated in a separate measure which is recommended for priority passage.

The controversy surrounding the organization and management of Hilo Hospital is expected to be resolved by a measure which will allow the hospital to be transferred or leased to the County of Hawaii. The measure also provides for an alternative plan by which the Governor can contract with a private, non-profit corporation to manage and operate the hospital, provided that the County of Hawaii agrees to the arrangement. Whatever course of action is ultimately agreed upon, it is expected that the new organizational arrangement will more closely satisfy the desires of the people of the Big Island than the current arrangement of direct state control.

Acute Care Hospital Consolidation. In its concern about the status of the county/state hospitals in the County Hawaii should acute care services be consolidated at Hilo or Kona hospitals, your Committee has provided \$225,000 to conduct a comprehensive study on this issue as well as other issues and alternatives being considered by the Department of Health. Further, your Committee is concerned about the possible disruption of services to the people of the County of Hawaii under the plan to return Hilo Hospital to the County of

Hawaii and whether Kona Hospital has the capacity and staffing capability to deal with the possible changes. Furthermore, your Committee strongly feels that the study should explore all possible alternatives, including the closure of the rural hospitals, the effects on hospital and medical services in returning Hilo Hospital to the County and the financial and management impact on the Department of Health and the County/State Hospital System.

SOCIAL SERVICES

Financial Assistance. In recent years, the various financial assistance programs have been experiencing large variances between projected and actual expenditures. Your Committee believes that these large variances can be avoided by using more current data to update cost projections at more frequent intervals. The Department of Social Services and Housing is requested to refine and standardize the budgetary data base and projection methodology in developing the financial assistance budgets for the next biennium.

Medicaid Program. Over a 16-year period from its inception in FY 1966-67 to FY 1982-83, Hawaii's Medicaid program increased from \$6.6 million to \$190 million. In order to balance the cost of medical care with the goal of providing adequate service to Medicaid recipients, your Committee is committed to seeking other innovative ways to deliver health services in a cost effective manner. Therefore, funds have been provided to continue the Nursing Home Without Walls project as an alternative way to avert the high costs for institutionalized care.

With an estimated \$3 million in potential third party liability claims outstanding, your Committee agrees that additional personnel resources are required in order to increase the identification and recovery of third party liability claims in the Medicaid program. Therefore, your Committee has provided funds for additional temporary positions for that purpose. Additionally, your Committee believes that a successful third party liability claim recovery program would have the effect of furthering cost containment.

Finally, your Committee has serious concerns regarding the program's current practice of encumbering large Medicaid fund balances from one fiscal year to the next in order to offset late billings. To avoid this practice, your Committee requests Medicaid officials to improve the method of deriving cost projections as well as to update cost projections at more frequent intervals.

LOWER EDUCATION

Redeployment of Existing Resources to Meet Enrollment Increases. Increases in enrollment not previously anticipated are predicted to occur in the next school year. Accordingly, Department of Education officials requested additional, new positions. However, your Committee believes that in these austere times the department should first be required to examine its existing resources and redeploy them by some priority determination. The department has already been able to identify a significant number of Instructional Resource Augmentation (IRA) positions which might be available for this purpose. Rather than utilize all of those identified positions for enrollment increases, however, it is your Committee's determination that only 40 IRA positions, joined by 37 district and state positions from Instructional Development (EDN 205) and District Administration (EDN 304), should be redeployed to the schools for the 1984-85 school year. The department is requested to report to the 1985 Legislature, for each position redeployed, the following: (1) the assignment from which the position has been redeployed; (2) the source of funding of that position and whether temporary or permanent; (3) whether a position only or an incumbent employee has been redeployed; and (4) the impact of the redeployment on both the receiving and the relinquishing units.

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 benefit pupils and *kupunas* alike and forges a special link between these two generations in our island community.

Comprehensive School Alienation Program (CSAP). Your Committee has provided funds for the continuation of this program in the second year of the biennium. CSAP is designed to provide alternative learning centers and special motivation classes to those students who have a difficult time learning in a regular classroom environment.

Early Provisions for School Success (EPSS). The EPSS program exemplifies the theory that early identification and intervention, rather than later remediation, is more efficient from both an educational and financial standpoint. The program is highlighted by assessment of kindergarten students and new first, second, and third graders, followed by supplemental assistance by 100 support teachers. Funds have been provided to maintain the current level of services.

Hawaii Educational Dissemination Diffusion System (HEDDS). The HEDDS program provides for cataloging and retrieval of research information that is available for public and private schools as well as the public in general. Your Committee believes that this support function should be continued for another year.

School Priority Fund. Your Committee acknowledges the purpose and value of the School Priority Fund, which allows each school some flexibility in the use of certain funds above and beyond its basic money needs. However, faced with limited state revenues and greater needs elsewhere, your Committee is permitting funds to be reduced temporarily on a one-time basis.

Student Activities. Co-curricular activities play a vital role in the development of well-rounded students. Two in particular shall receive additional support in the next fiscal year, Distributive Education Club of America and Future Farmers of America. The funds will permit more students to participate in their workshops.

Student Science Training Program. The Hawaii chapter of the Student Science Training Program provides a summer enrichment course for students gifted in math and science. Funds have been provided to enable students with financial need to participate in this program.

Blue Water Marine Laboratory Program. Your Committee has recommended for funding the Blue Water Marine Laboratory Program. This is a program which takes classes out on the ocean aboard a research vessel and introduces students to oceanographic sampling, the marine environment, wise use of ocean resources, and safe shipboard practices. Your Committee believes that this is a valuable and rewarding experience for the students served by the program.

Teacher Exchange Program. This program allows certificated employees the opportunity to grow professionally through exchanged assignments with mainland and foreign counterparts. Your Committee believes that this program is valuable enough to continue it through the biennium.

Summer Session Tuition Waiver. Summer session is an option available to all students, but for a fee. For those students who need the additional instruction, but who could not otherwise afford to attend, your Committee has provided funds to continue the tuition waivers at current levels.

Statewide Testing Program. The initial development of measuring instruments for use in the Department of Education was accomplished with federal funds. Those funds are no longer available for the new tests that Department of Education believes it needs, so your Committee has provided for them in the interest of maintaining quality.

Superintendent's Protocol Fund. The Office of the Superintendent has again been provided with a small protocol fund to be released at the discretion of the Board of Education. While your Committee believes that there is reason to provide such a fund, it expects that appropriate guidelines for its use will be developed by the Board of Education.

School Facilities. Funds have been authorized to meet population shifts and enrollment increases which require additional school facilities. In addition, recognizing that the State needs to protect its substantial investment in its school plant and to ensure that existing facilities are safe and functional, a total of \$10 million has been authorized for the purpose of the repair, maintenance, and renovation of school facilities.

Public Libraries. Funds have been included so that the public library system can acquire books and materials beyond the level possible during the past two years. It is hoped that the infusion of additional funds for books and materials acquisition will upgrade the holdings of the various libraries and enable them to better serve the needs of the public. In addition, \$100,000 has been provided to complete a project development report for a statewide resource center.

Educational Television Charges. The Department of Education has been provided with sufficient funds to cover the increased electrical costs for which it is charged by the Hawaii Public Broadcasting Authority. The moneys are intended to cover the rate increases for 855 broadcasting hours.

HIGHER EDUCATION

Instruction. Funding decisions were based on a review of the most critical needs and the effects of inflation. The graduate assistants' pay increase was provided since they are essential in rendering instructional and research services. Books and periodicals, where inflation hit the hardest, were funded in order to provide a continuous flow of up-to-date information. The Electronics Training Industry was funded to help determine the training needs of the electronic industry in Hawaii. The funding of the Western Interstate Commission for Higher Education maintains the current level of support for Hawaii students participating in the Professional Student Exchange Program.

Research Projects. Sufficient funding is included in the budget to encourage high quality cooperative research by the Pacific International Center for High Technology Research. For the Hawaii Natural Energy Institute, your Committee funded the project to maintain the current level of annual research and development support on renewable energy technologies. For the Pesticide Hazard Assessment Project, your Committee funded the project to continue pesticide research and help obtain funds from the U.S. Environmental Protection Agency (EPA).

On-Line Student Registration and Record System. The increase in enrollment and significant problems in the admissions process, the cashier's billing system, creating a student information system, and the registration process have created the need for an on-line student registration and record system. The University's current system of registration will be obsolete and no longer supported by the vendor after 1985. To bring about an efficient, integrated, on-line, computerized system, your Committee provided the funding to purchase the necessary hardware and software and hire the technical personnel to assist and train staff and students with the implementation of the student information system.

Personnel. Your Committee recognized the need to provide personnel in areas where the positions are most essential. Also, positions which were originally federal funded and which have been to the benefit of the University in providing high quality education were retained. In the area of facilities and maintenance, these positions are important to maintain the physical appearance and educational environment befitting a first-rate university. Also, these positions will help to protect and maintain the State's investment.

In the area of health and safety, your Committee realized the need to protect the welfare of its students and faculty. Positions to help alleviate the liability of the University from federal and state regulations were given high priority.

Equipment. Your Committee was cognizant of and moved to meet the need to replace obsolete and worn-out equipment in programs of importance and high visibility. For the Foreign Language Laboratory, your Committee funded equipment needs to return the lab to its former prominence. For the food service program, your Committee funded the equipment required for efficient services.

Facilities and Improvements. Your Committee has authorized sufficient funding for designing and constructing needed improvements of old structures as well as the development of new facilities. The major projects in this area include the renovation of Bilger Hall and Edmondson Hall, and the development of new medical school facilities at Kuakini Medical Center and other hospitals. Two other major projects on the Manoa Campus are \$700,000 to complete the baseball stadium roof and \$50,000 for plans for a multipurpose activities center to be included with the second increment of the physical education facilities.

For other campuses, funds were made available for the construction of new vocational education facilities at Honolulu Community College and Kauai Community College. For Maui Community College, funds were provided for improvements of the grounds, including parking and lighting of roadways. For Coconut Island, the marine biology program has been provided funds to install a new electrical system. In support of the Mauna Kea Observatory, funds were provided for improvements to the access road and a new electrical system.

CULTURE AND RECREATION

Recreational programs will be expanded through funding of improvements to water based programs as well as parks. Funds are being authorized to improve and renovate various boat launching facilities, including construction of new facilities in Kapaa and Maunaloa. With respect to parks, funds will be available to improve facilities at Malaekahana Beach Park and Ukumehame-Kaanapali Park and expansion of Makena-La Perouse State Park.

PUBLIC SAFETY

Halawa Medium Security Facility. The problems of overcrowding in correctional facilities have led your Committee to carefully scrutinize expenditures in this area. In the General Appropriations Act of 1983, the sum of \$51.9 million was provided to fund a 500-bed Halawa Medium Security Facility which is intended to relieve overcrowding at Oahu Community Correctional Center. This year, the administration requested an additional \$16.5 million for construction of support facilities and an additional module unit.

Such major cost expenditures in an area which affects public safety during a period of fiscal austerity has required your Committee to seek creative strategies. After its review, your Committee is convinced that a prudent approach in this area requires an incremental development of the new facility supplemented with increased support for rehabilitative programs. Therefore, your Committee has maintained the appropriation of \$51.9 million for the medium security facility at Halawa and has directed additional attention to rehabilitative programs.

Rehabilitation and Facility Security. Your Committee has incorporated the staff and resources of the in-community facilities into the Oahu community correctional facility program. Better facility and program utilization will be accomplished by this incorporation. With this redeployment of staff and resources, additional positions and funds have been provided to the Oahu community correctional facility to alleviate the severe management problems facing the Wahine's facility and to allow for the expansion of the furlough program which will prepare as many male inmates as possible for their parole release and integration back into the community. Furthermore, additional positions and funds have been provided to the Oahu, Maui, and Hawaii community correctional facilities to allow the Department of Social Services and Housing to establish new security posts that will ensure both public and inmate safety as well as maintain an adequate level of security supervision over an ever-increasing population. Finally, your Committee believes that a pre-release furlough program for the women at the Wahine's facility is needed and has therefore provided funds for that purpose.

In seeking alternatives to incarceration, your Committee has authorized the intra-program transfer of funds to continue the pre-trial misdemeanor and community services restitution programs. Both programs provide diversionary alternatives to incarceration and help to alleviate the overcrowding problem.

While your Committee recognizes the need for alternative solutions to address the long-term problem of inmate reform and overcrowded conditions at the correctional facilities, it still believes that providing additional staffing and adding new buildings can not and should not be used as a long-term solution to the overcrowded problem at these facilities.

Your Committee directs the Department of Social Services and Housing, as a matter of the highest priority, to seek effective alternatives to the problems of overcrowding, including appropriate classification and deployment of inmates, renovation and reconstruction of present facilities, and development of rehabilitative programs which support reintegration of those incarcerated back into society as law abiding citizens. In the meanwhile, your Committee has provided \$1.25 million for the planning, designing, and construction to supplement existing water storage facilities for the purpose of increased utilization of

Kulani Correctional Facility.

Victim-Witness Program. With the current rise in crime and efforts to expeditiously process cases through the courts, your Committee recognizes the need to continue providing assistance to victims of crimes through the funding of the victim-witness program. In addition, funds have been provided to the witness security program in each county to assist in the prosecution of organized crime.

INDIVIDUAL RIGHTS

Commission on the Status of Women. Although your Committee still believes that the functions of the Commission on the Status of Women duplicate those of other agencies, it has provided funds to continue the Commission in the second year. Your Committee feels that the Commission should be actively seeking to have its duties assumed by the Office of Affirmative Action.

Consumer Advocate. Your Committee is concerned with the effects that fuel adjustment clauses have upon consumers. At present, there are not many incentives for utility companies to acquire fuel oil at favorable prices. In addition, there has never been an attempt to reconcile the revenues attributed to fuel costs adjustments, and the cost of fuel itself. Therefore, your Committee is providing funds to the Consumer Advocate for a study to investigate the fuel cost adjustments which are allowed to utility companies.

No-Fault Insurance Law. Your Committee is also concerned that the No-Fault Insurance Law and its escalating rates have had a detrimental effect upon the motorcycle industry. Your Committee recognizes that ten years have passed since the adoption of the No-Fault Law, and therefore, your Committee has provided funds for a review of the No-Fault Insurance Law.

Public Defender. With improvements being made to expedite the criminal justice calendar, cases are going to trial more quickly. The Office of the Public Defender provides essential legal defense services to those who are entitled to such services, and its workload has increased with the more expeditious processing of cases in the Judiciary. Therefore, funds are being appropriated for additional attorneys and support staff so that adequate and timely defense services can be provided.

GOVERNMENT-WIDE SUPPORT

Litigation. As society generally becomes more litigious in nature, legal costs are increasing to cover expenses relating to claims against the State. Your Committee has considered and carefully reviewed the requests for litigation funds sought by various departments and realizes that neither the Department of Attorney General nor the other departments have been able to account for litigation expenses. Since claims against the State are unpredictable, the costs of litigation could be considered to be in the nature of a contingency fund. Therefore, a decision has been made to transfer all litigation funds temporarily into the Department of Budget and Finance as a means to account for all litigation costs statewide. Your Committee strongly recommends that until the Attorney General establishes administrative policies and exhibits sound planning, control and accountability relating to litigation expenses, the Department of Budget and Finance will assume the responsibility of controlling the funds for litigation.

Election Administration. Fiscal year 1984-85 marks the beginning of an election year and the State of Hawaii is currently preparing for the new reapportionment plans. Numerous district changes have occurred in the 1984 plan, and the need to notify the voting public of their new district/precinct assignments is warranted. Therefore, funds have been provided to send notices to 450,000 voters.

During the past year's reapportionment review, the election administration found that the use of census tract/block designations for the establishment of a population data base was constrained by the number of errors and gaps in the current census designations for the State of Hawaii. Your Committee believes that a more accurate data base is necessary, and funds have been provided for the realignment of the State's census block/track designations.

In addition, your Committee recently discovered that the State of Hawaii is in substantial non-compliance with the requirements of the federal Voting Rights

Act, 42 U.S.C., Section 1973. While reviewing the election laws and procedures in conjunction with the 1984 reapportionment plan and 1984 Hawaii State Precincts, it was found that most of Hawaii's elections laws and procedures have never been precleared. Therefore, funding for a special counsel to represent the State has been provided to remedy this problem in time for the 1984 elections.

Iolani Palace Security. Damage of Hawaiian historical sites and monuments has become a specific concern following the vandalism at Iolani Palace. Therefore, funds have been provided for a security attendant to patrol the Iolani Palace grounds in attempts to prevent further vandalism.

Workers' Compensation. Workers' compensation claims by state employees have increased dramatically over the past few years, costing the State almost \$5 million each year. In addition, the types of cases have grown more complex; many are too difficult for the existing staff within the individual departments to adequately handle. As a result, cases are referred to the Department of Personnel Services, Training and Safety Division, which places a burden upon the existing staff. Training and guidance are crucially needed for the other departments. Thus, funds for one permanent and four temporary positions have been appropriated to train the departmental staff in the handling of workers' compensation claims.

Communications. In light of the sizeable rate increases projected for telephone services, your Committee has provided funds to the Department of Accounting and General Services to meet the deficits expected due to the pending rate increases.

Taxation. Your Committee supported the Department of Taxation's efforts in upgrading the income tax system, with the goal of providing more timely and accurate services to the public. Your Committee has, therefore, provided funds to the Department of Taxation to continue to computerize and modernize various operations and processes of the tax system.

Collective Bargaining Costs. In separate measures, your Committee has appropriated funds for the cost items of the collective bargaining agreements which have been ratified. In addition to the costs of salary adjustments, the costs of increased public employers' contributions for medical insurance have also been accommodated in an appropriations measure. Those state officers and employees who are excluded from collective bargaining will also have salary adjustments funded through a separate measure.

Pensioners' Bonuses. A separate measure approved by your Committee will provide bonuses to state and county pensioners in order to counter the erosion of their real income because of inflation and the inadequacy of the present post-retirement and cost of living provisions. This will provide some relief to retirees until more systematic changes can be made.

RECOMMENDATION

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1640-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1640-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 535-84 Education on H.B. No. 1697-84

The purpose of this bill is to require Board of Education members to be elected in staggered terms.

Currently the four-year term for all thirteen members of the Board of Education begins and ends on the day of the special election held in conjunction with the general election. The implementation of a staggered electoral process for Board of Education members would begin with the special election held in conjunction with the 1984 general election. Members of the Board would be divided into two classes, with the first consisting of seven members serving a term of four years, and the second consisting of the remaining members holding office for a term of two years, ending on the day of the special election held in conjunction with the general election following their election. The members of

the second class shall then be elected for a four-year term.

Members of the first class would consist of three members who are elected with the highest number of votes representing the first school board district. That district being the island of Oahu, comprised of the seventh through the twenty-sixth representative districts. The first class would also include one member elected from each odd-numbered departmental school districts which are Hawaii, Honolulu, Leeward Oahu, and Kauai.

The second class would consist of the three members of the first school board district who are not members of the first class, and a member of the second, fourth, and sixth departmental school districts which are Maui, Central Oahu, and Windward Oahu.

This bill would ultimately produce a Board comprised of members elected to four-year terms with the election of the first and second group being alternated at two-year intervals in conjunction with the general election. This bill provides for greater continuity of the Board's operations and increases its efficiency and effectiveness.

Your Committee has amended the bill by adding a reference to the districts referred to in establishing member classes, and by adding a new section to increase the salary of the state librarian to equal that of administrative department heads.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1697-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1697-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 536-84 (Joint) Education and Transportation on H.B. No. 2036-84

The purposes of this bill are to: 1) amend Section 286-102(b), Hawaii Revised Statutes, by deleting the requirement that a school "bus" operator must hold a Department of Education bus operator certificate, and adding the requirement that school "vehicle" operators must comply with Department of Transportation (DOT) regulations; and 2) amend Section 286-181(c), Hawaii Revised Statutes, to provide school vehicles weighing less than 10,000 pounds, owned by a day care center, child care facility, headstart program, or pre-school an exemption from certain DOT vehicle safety regulations.

Currently, to comply with the recommendations of the National Transportation Safety Board (NTSB) as adopted by the DOT, day care centers, child care facilities, headstart programs and preschools are required to purchase a \$30,000 plus federally approved vehicle. Given the tight fiscal constraints under which most of these centers and facilities operate, the capital expense involved in such a vehicle purchase would be prohibitive. The NTSB recommendations took into account factors such as ice, snow, and distance which do not affect driving safety conditions in Hawaii. Since purchasing a \$30,000 plus vehicle is not possible for some schools, they would have to cancel all excursions for their children, an important component in a curriculum that seeks to adequately prepare children for entrance into a school setting.

This bill allows school vehicles used by day care centers, child care facilities, headstart programs and preschools that are less than ten thousand pounds to be regulated under less stringent DOT rules. In addition, school vehicles used primarily for transporting student athletes would also be exempt from NTSB recommendations and regulated under the same DOT rules.

Your Committees agree that some of the NTSB recommendations are inappropriate to Hawaii and will place undue financial burdens on preschools and related child care facilities. However, your Committees find the proposed change to rules regulating school vehicles to be inadequate and may not protect the safety and welfare of students both preschool and older. Therefore, your Committees have amended the bill to allow the DOT to adopt rules which recognize the incongruity of the NTSB recommendations yet maintain the standards necessary to provide the greatest possible safety to students.

The bill was also amended to require "bus" operators to be properly licensed

instead of "vehicle" operators.

Your Committees on Education and Transportation are in accord with the intent and purpose of H.B. No. 2036-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2036-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Abercrombie, Uwaine and Soares.

SCRep. 537-84 Judiciary on H.B. No. 1362

The purpose of this bill is to propose amendments to Article III, sections 2 and 3, and Article IV, section 4, of the Hawaii State Constitution to 1) allow a variable number of Senators and Representatives to be elected from respective senatorial and representative districts, 2) authorize the Reapportionment Commission to establish the number, and 3) allocate the total number of members of each House of the State Legislature being reapportioned among the four basic island units on the basis of the number of voters registered in the last preceding general election.

Under the proposed changes, the Senate will be composed of twenty-five members, or a number of members as may be established by the Reapportionment Commission, such number not to exceed twenty-seven.

The House of Representatives will be composed of fifty-one members, or a number of members as may be established by the Reapportionment Commission, such number not to exceed fifty-three.

The current number of State Senators and Representatives was established in the 1950 Constitutional Convention. At that time, Hawaii's population was approximately 497,000 people. During the last 30 years, however, the population of Hawaii has doubled, and there have been significant changes in the distribution of this population. Moreover, federal requirements for voting representation were substantially altered by the Supreme Court decision, *Baker v. Carr*, 369 U.S. 186 (1961), which set new standards for the "one man, one vote" principle.

Your Committee finds that the present fixed number system has a major drawback with respect to reapportionment: the inevitable choice is between either having wide variations in the number of voters per representative district, or having districts cross traditional political subdivisions, natural geographic features, and even basic island units as was the case with the 1984 Reapportionment Plan.

Use of a variable number mechanism in the 1984 reapportionment would have enabled the Reapportionment Commission to meet federal constitutional requirements of equal population distribution, as well as meet Hawaii constitutional requirements for apportionment among and within basic island units. More importantly, your Committee believes that use of this type of apportionment mechanism could become in the future one of the most significant means of preserving the integrity of Hawaii's basic island units and their unique geographical and cultural characteristics.

Your Committee amended the bill to set the maximum number of Representatives that can be established by the Reapportionment Commission from fifty-three to fifty-five. The larger number is necessary in order to allow the present ratio of Senators to Representatives (25/51) to be maintained should the Commission decide to increase the number in either group.

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. 1362, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1362, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 538-84 (Majority) Judiciary on H.B. No. 162

The purpose of this bill is to amend chapter 26, Hawaii Revised Statutes, to exempt from civil liability members of state boards and commissions who serve without pay, unless the member acts with a malicious purpose, in bad faith, or a wilful or wanton manner.

Your Committee supports protecting "volunteer" boards and commission members from frivolous suits, suits extended as harassment, and more importantly, suits which may be intended to intimidate these persons to influence policies and decisions. Such protection should encourage more people to contribute their valuable knowledge and experience in the community interest, and promote more open, deliberate policy and decision making in response to the general public.

Briefly, the bill also:

- 1) defines "member" as meaning any person who is appointed to serve on a state board, council, authority, committee, or commission without compensation, expressly excluding any person serving on a board or commission with land trust obligations;
- 2) authorizes state indemnification for a judgment, settlement, or compromise of a claim against the member, unless the loss is covered by state insurance, or is caused because the member acted or failed to act with a malicious purpose, in bad faith, or a wilful or wanton manner;
- 3) prohibits such indemnification if the member fails to cooperate fully in the defense of the action, if any portion of the judgment is punitive or exemplary damages of if any portion of the settlement is found to be unreasonable by the Legislature;
- 4) requires the Attorney General to represent the member entitled to immunity or indemnification if the member requests representation and provides the Attorney General the complaint served upon him;
- 5) provides that the member can retain his own counsel at his own expense but will be not eligible for state indemnification;
- 6) allows the member to compromise or settle any claim at the member's own expense;
- 7) provides that if the Attorney General denies representation, the member in certain situations can attempt to recover from the State reasonable costs and fees in defending the action; and
- 8) if the member is denied representation, authorizes the member to seek reimbursement from the Legislature by introducing a bill and provides that money required to be paid by the State shall be appropriated by the Legislature at the next session after the member is required to pay.

Your Committee notes claims for money damages for injuries or losses allegedly suffered as a result of board or commission members' performance of their official duties were being brought against members in their personal capacity with increasing frequency. As a consequence, members have had to endure the stresses and uncertainties which inure against defendants in any lawsuit; in a few instances members have had judgments rendered against them personally. Mindful of this problem, your Committee amended the bill to give "volunteer" board and commission members more immunity; it raised the standard of liability from an act with a malicious purpose, in bad faith, or a wilful or wanton manner to an act for a malicious purpose or improper purpose. This standard conforms with Medeiros V. Kondo, 55 Hawaii 499 (1974), controlling authority for the standard of liability of government officials. Your Committee similarly changed the standard for indemnification to make the two provisions consistent.

Your Committee also made the following amendments to the bill:

- 1) it deleted references to elected members, as the definition of member was amended to exclude elected members in the latest House draft;
- 2) it revised the language and style of subsection (b), relating to immunity;

- 3) it clarified that the member can seek to introduce a bill in the Legislature to obtain reimbursement.
- 4) it made technical, nonsubstantive amendments to clarify language and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 162, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 162, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Carpenter did not concur.

SCRep. 539-84 Health on H.B. No. 1740-84

The purpose of this bill is to clarify ambiguous language concerning membership and quorum for the Commission on the Handicapped.

In accordance with past interpretation of Section 348-E, Hawaii Revised Statutes, the Commission on the Handicapped has been operating with 15 voting members and six ex-officio nonvoting members, for a total of 21 members. However, a recent opinion by the Attorney General's Office interpreted the statute as requiring 21 members appointed by the Governor and six ex-officio nonvoting members, for a total of 27 members.

The Attorney General's opinion further finds that the number of members necessary to constitute a quorum as being 14 members. However, a problem arises because: 1) the Commission has been operating with 15 instead of 21 appointed members; and 2) six members who are counted in the quorum, by statute, do not have voting privileges, thereby making it difficult for the Commission to validate actions concerning policy.

This bill would remedy the situation by providing for 15 members to be appointed by the Governor, which is consistent with the manner of operation for the past six years, and conforms the law to the present practice. The bill also defines a quorum to be eight voting members and adds the Director of Transportation and the Comptroller as ex-officio nonvoting members of the Commission.

Your Committee has amended the bill by substituting "comptroller" for "Director of Accounting and General Services," which is the correct title for that position and 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. 1740-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1740-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 540-84 Health on H.B. No. 1742-84

The purpose of this bill is to clarify the definition of brain death by transferring the clause pertaining to brain death from its current inappropriate location in subsection (a) of Section 327C-1, Hawaii Revised Statutes, to subsections (b) and (c) of that section.

Your Committee finds that Act 216, Session Laws of Hawaii 1983, amended Section 327C-1, Hawaii Revised Statutes, to include the brain stem in the definition of "brain death" in conformance with the "Uniform Determination of Death Act", recommended by the American Medical Association. The amendment was inadvertently added to subsection (a), where it has no force or effect since subsection (a) deals with the cessation of spontaneous respiratory and circulatory functions, the usual way in which death is determined.

Your Committee finds that the amendment should be inserted into subsections (b) and (c), which pertain to the application of the concept of "brain death" whereby the use of artificial life support systems preclude a determination that respiratory and circulatory functions have ceased. The phrase "all functions of the entire brain, including the brain stem", presently located in subsection (a),

should replace the words "brain function" where they occur in subsections (b) and (c).

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 H.B. No. 1742-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1742-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 541-84 Health on H.B. No. 2075-84

The purpose of this bill is to provide an administrative procedure by which the public may appeal a determination to the Environmental Council that an Environmental Impact Statement (EIS) is or is not required under section 343-5, Hawaii Revised Statutes.

Currently, the law makes no provision for an administrative appeal to the Council of an assessment made by an agency that a proposed action may or may not have a significant effect on the environment. The only recourse is to file a court action within sixty days of publication of the agency determination, which is unnecessarily costly to the questioning party, the agency which prepared the assessment, and the courts. This bill establishes an administrative remedy for persons aggrieved by an agency's determination which is in addition to the judicial remedy provided in section 343-7(b), Hawaii Revised Statutes.

Your Committee heard testimony by the Environmental Council, the Land Use Research Foundation of Hawaii, the Department of Land Utilization of the City and County of Honolulu, and the University of Hawaii Environmental Center, and finds that the Environmental Council already has most of the mechanism in place to assume responsibility for appeals, and that the procedure recommended in this bill will provide a needed check and balance on the EIS system.

Upon further consideration, your Committee has accepted the recommendation of the Land Use Research Foundation of Hawaii and has amended the bill by deleting the sentence "The person or agency appealing the determination and agency which prepared the assessment shall abide by the council's decision" from page 2, lines 7-9, and page 4, lines 11-14. The purpose of this amendment is to conform the intent and language of the statute to section 343-7(b), Hawaii Revised Statutes, which permits judicial appeal of a Council's determination.

Your Committee has further amended the bill by making nonsubstantive technical changes to conform to recommended drafting style.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2075-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2075-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 542-84 Health on H.B. No. 2308-84

The purpose of this bill is to conform Hawaii's controlled substance schedules with the federal schedules by adding the substances alpha-methylfentanyl, parahexyl, sufentanil, tilidine, alprazolam, halazepam, temazepam, triazolam, and synthetically produced cocaine. The bill further clarifies the legal definition of cocaine.

Your Committee heard testimony from the Environmental Protection and Health Services Division of the Department of Health and, upon further consideration, has made the following amendments to the bill:

- (1) The substance sufentanil is deleted from Schedule I and placed in Schedule II on the basis that the manufacturer, Janssen Pharmaceutical Company, is in the process of receiving approval from the Federal Food and Drug Administration for the safe and effective use of the

drug under the professional supervision of a practitioner;

- (2) The spelling of methylphenobarbital, page 5 line 19, (page 7, line 5 of the bill as amended) is corrected; and
- (3) Practitioners who issue prescriptions for Schedule II controlled substances are required to use official pre-printed prescription forms issued by the Department of Health. This amendment allows for better input into the state's prescription computer, making the detection of forgeries and stolen prescriptions easier, and preventing unauthorized practitioners from writing prescriptions.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2308-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2308-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 543-84 Health on H.B. No. 2523-84

The purpose of this bill is to impose more stringent requirements on the Director of Health and the public water systems in the area of contaminated drinking water.

Specifically, this bill: (1) amends section 340E-4, Hawaii Revised Statutes, to require the Director of Health to take appropriate actions upon finding that a contaminant is in or is about to enter a public water supply and poses an imminent and substantial danger to public health; and (2) amends section 340E-6, Hawaii Revised Statutes, to require that public notices as required under that section shall include a description of any appropriate corrective actions being taken.

Your Committee heard favorable testimony from the Department of Health and finds that this measure is in the public interest in that it clarifies the role of the Director of Health upon findings of imminent and substantial danger to public health and apprises the public of hazardous conditions within their water supplies.

Your Committee has amended the bill by deleting the word "shall" from page one, line 5 and reinserting the word "may", in order to be consistent with the intent of the statute, and by making a technical change which has no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2523-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2523-84, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 544-84 Transportation on H.B. No. 1758-84

The purpose of this bill is to amend Section 279E-8, Hawaii Revised Statutes, to reflect new federal directives relating to clearinghouse agencies.

Clearinghouse agencies are responsible for the coordination and review of applications for federal assistance and for direct development. Changes in federal policy require equivalent changes in the Hawaii Revised Statutes.

Currently, Section 279E-8 authorizes the Governor to appoint agencies in the State or counties as clearinghouse agencies to exercise duties as required under the Office of Management and Budget (OMB) circular A-95.

In 1982, Executive Order 12372--Intergovernmental Review of Federal Programs directed the revocation of the OMB circular A-95 and established a new federal policy of consultation and cooperation with State and local governments in the administration of federal assistance and direct federal development. This bill will conform Hawaii law to the new federal policy.

Your Committee heard testimony in favor of the bill from the Department of

Planning and Economic Development.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1758-84, 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. 545-84 Transportation on H.B. No. 2143-84

The purpose of this bill is to amend sections 266-21.1(d) and 266-25, Hawaii Revised Statutes, relating to small boat harbors.

Under the present Department of Transportation (DOT) rules relating to small boat harbors, any transfer of an interest in any vessel automatically terminates any right to moor or operate the vessel under the permit. This has created a hardship on commercial operators in the State's small boat harbors. This bill attempts to reconcile the disparity in the rules governing commercial operators in small boat harbors and commercial harbors by:

- (1) permitting commercial vessel owners holding valid mooring or commercial permits to transfer ownership of the vessel to a corporation without losing their rights to moor or operate the vessel under their permits;
- (2) adding the definition of "person" and clarifying the definition of "owner";
- (3) requiring the "owner" of a vessel to notify the DOT of any transfer of interest or possession in the vessel within 7 days of the transfer;
- (4) amending Section 266-25, Hawaii Revised Statutes, to clarify which harbor personnel have authority to enforce Chapter 266 and the rules of the DOT; to authorize courts to deprive offenders of mooring and operating privileges in state waters for two years as a condition or suspension of fines and penalties; and to provide additional penalties for violations which cause a hazard to life or property, or disrupt operations, or cause financial losses to users of harbor facilities.

Your Committee received testimony from DOT, the Department of Planning and Economic Development, and owners and operators of commercial vessels moored in State small boat harbors stating that the automatic loss of permits upon transfer of ownership is a serious problem to the industry and needs to be addressed.

DOT reported to your Committee that at least one jurisdiction has five-year concession leases for commercial operators where the incumbent has first option to renew the lease for another five years. If the option is refused, the lease is put up for bid. Your Committee has requested that DOT investigate the feasibility of instituting a similar system.

Your Committee has also requested that DOT, which is presently authorized to impose fees, investigate and institute transfer fees to be paid by the transferring commercial owner based on the value or revenues of that owner's harbor related operation. Your Committee has further requested that this transfer fee arrangement be applied as uniformly and fairly as possible throughout the State.

Finally, your Committee has requested that DOT clarify, through its rules, the conditions and limitations of transfers between various types of mooring permits, such as individual, commercial, or corporate permits, and the allowable mix of these various permits in different harbors.

Your Committee has made minor amendments in the wording of the first and last paragraphs in Section 1 of the bill for the purposes of clarity without changing the intent of the bill.

Your Committee has further amended the bill by deleting "Notwithstanding the above" on page 2, line 17 of the bill as received to delete unnecessary language.

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

H.B. No. 2143-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2143-84, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 546-84 Transportation on H.B. No. 1637-84

The purpose of this bill is to clarify an ambiguity in the law as to whether or not a vehicle is considered abandoned.

Presently, a vehicle left unattended for a continuous period of more than twenty-four hours and which is unlawfully on a public highway, other public property or private property, is considered to be abandoned.

This bill establishes that county ordinances take precedence in the definition of abandoned vehicles. In the absence of a county ordinance a vehicle is abandoned if left unattended for a period of more than twenty-four hours and it is unlawfully on a public highway or any other public property.

Your Committee heard favorable testimony from the Department of Transportation, the Police Department of the City and County of Honolulu, the Waikiki Improvement Association, Inc., and Neighborhood Board No. 10.

Your Committee has amended the bill by adding the word "parked" after the word "unlawfully" in line 16, page 1 of the bill as received.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1637-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1637-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 547-84 Ways and Means on H.B. No. 1725-84

The purpose of this bill is to increase the amount of the bond for contracts for the construction of public works, buildings, roads and other site improvements from 50 per cent to 100 per cent of the contract price.

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. 1725-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1725-84, S.D. 1.

Signed by all members of the Committee.

SCRep. 548-84 (Majority) Ways and Means on H.B. No. 1933-84

The purpose of this bill is to improve the health planning and development law and add as a principal function of the state health planning and development agency (SHPDA) the responsibility for controlling increases in health care costs.

This bill provides for: (1) health care cost control as a principal function of SHPDA; (2) a requirement that SHPDA report annually to the legislature on methods to control health care costs; (3) a planning process that looks toward the economical delivery of health care; (4) new and more stringent criteria for the granting of certificates of need for health care services and facilities, with emphasis on the impact of the proposed services and facilities on health care costs; and (5) elimination of existing lengthy and ill understood certificate of need criteria.

Your Committee has made the following major amendments to the bill.

The definition of "physician" on page 6 of the bill, as received, has been reworded. Under the former language, "physician" included a "doctor of naturopathy who is legally authorized to practice medicine and surgery by the State". A naturopath is not authorized to practice medicine and surgery. The new language, while retaining a doctor of naturopathy under the definition of

"physician", removes the implication that a naturopath is authorized to practice medicine and surgery.

The appropriation for the state health planning and development agency has been reduced to \$185,000. Your Committee considers this appropriation to be sufficient.

Section 21 has been amended to exempt certificate of need applications which are completed prior to July 1, 1984 from the new criteria of the bill. Your Committee has made the amendment because certificate of need applications completed prior to that date have been formulated according to the criteria of the existing law. Resubmission of the completed applications under new criteria would not be fair to the applicants. Your Committee intends that applications completed prior to July 1, 1984 be reviewed under the criteria existing prior to that date. Your Committee emphasizes that this provision applies only to those applications which are determined by SHPDA to be complete prior to July 1, 1984.

In addition, your Committee has made technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1933-84, 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. 1933-84, H.D. 2, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 549-84 Ways and Means on H.B. No. 2257-84

The purpose of this bill is to authorize the department of health to provide child abuse and neglect secondary prevention programs.

Your Committee is in agreement with the purpose of this bill. Child abuse and neglect causes mental disorders and psychosocial and family problems for victims. Public expenditures to alleviate the results of child abuse and neglect have increased and consume a large portion of the annual budgets. These expenditures cannot continue to increase as in the past, and the amelioration of child abuse and neglect is recognized as urgent. Child abuse and neglect also is self-generating. Victims tend to become perpetrators upon reaching parenthood. Thus, prevention services are imperative for the ultimate elimination of child abuse and neglect.

In recognition of the importance of prevention services, your Committee has included a new provision to broaden the department of health's duties in the area. The new provision is included as section 321-31(5), Hawaii Revised Statutes, in the bill, as amended. It requires the department to serve as the lead agency for programs which provide for a coordinated range of child abuse and neglect prevention services. These programs are intended to include primary, as well as secondary, prevention. Your Committee also emphasizes that the department's prevention programs are to be coordinated with treatment services to minimize duplication and promote efficiency and effectiveness.

Your Committee has amended the bill further by establishing an advisory committee. The advisory committee is to provide advice to the department of health on the implementation of the secondary prevention programs. Your Committee feels that the advice of experts on the issue is necessary and will be of great value.

Your Committee also has made nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2257-84, 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. 2257-84, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 550-84 (Majority) Ways and Means on H.B. No. 1746-84

The purpose of this bill is to revise the basic unemployment insurance contribution rate schedule to conform to recent amendments to the Federal

Unemployment Tax Act (FUTA), Public Law 97-248.

Under the current law, the maximum employer contribution rate is 4.5 per cent, the standard rate is 3.0 per cent, new employers are assessed at the rate of 4.5 per cent, and one-half of extended benefits paid to claimants are charged to the Unemployment Insurance Trust Fund. Inasmuch as FUTA, effective January 1, 1985, will increase the federal unemployment tax on wages paid by employers from the present 3.5 per cent to 6.2 per cent, and the tax credit allowable to employers on taxes paid to the State from the present 2.7 per cent to 5.4 per cent, Hawaii and all other states whose maximum tax rate is below 5.4 per cent will have to raise their maximum tax rate to at least 5.4 per cent in order to receive the maximum tax credit allowable under FUTA; otherwise, employers will be required to pay more federal unemployment tax.

In addition to raising the maximum tax rate to 5.4 per cent, this bill establishes rate differentials of 0.6 per cent for each level of the tax rate above 3.0 per cent. This is in keeping with section 3301(a)(1) of FUTA which requires that a state's experience rating system must reasonably reflect the experience of individual employers with respect to factors directly related to unemployment risks.

Further, this bill increases the standard contribution rate from 3.0 per cent to 5.4 per cent beginning January 1, 1985, in conformance with FUTA. It also proposes a basic contribution tax rate of 3.6 per cent for new or newly covered employers, which is the maximum rate for positive reserve employers under the revised schedule.

Finally, this bill provides that extended benefits paid shall be charged to the employers rather than the Unemployment Insurance Trust Fund, in order to curtail "fictitious reserves" which could trigger an unwarranted lowering in tax rates and jeopardize the program's solvency.

Your Committee recognizes that the Legislative Auditor recommended that the employer contribution rate be raised to 7.5 per cent. Your Committee feels that this bill, while not adopting that recommendation, is a move in the direction urged by the Legislative Auditor.

Your Committee has amended this bill by making a stylistic change to section 383-68(d), Hawaii Revised Statutes, by deleting references to paragraph (1) since there is no paragraph (2). 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. 1746-84, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1746-84, H.D. 2, S.D. 1.

Signed by all members of the Committee.
Senators Kawasaki and Soares did not concur.

SCRep. 551-84 (Majority) Ways and Means on H.B. No. 1319

The purpose of this bill is to allow the department of land and natural resources to establish live-in cultural parks of not less than twenty acres and not more than thirty acres to preserve traditional Hawaiian culture.

Your Committee heard the companion bill on this matter S.B. No. 927.

Your Committee finds that this bill would contribute toward the reestablishment of traditional Hawaiian communities and customs which are rapidly being lost as older Hawaiians with first-hand knowledge of these traditions age and pass away.

Your Committee has amended this bill by transferring to the department of land and natural resources the responsibilities to manage and operate the parks and to select applicants to live in the parks. The bill provides that the office of Hawaiian affairs will serve in an advisory capacity to the department of land and natural resources in all phases of the initiation, development, and management of the cultural parks. Your Committee also 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. 1319, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1319, H.D. 2, S.D. 1.

Signed by all members of the Committee.
Senators Kawasaki, Ajifu, Henderson and Soares did not concur.

SCRep. 552-84 Ways and Means on H.B. No. 1726-84

The purpose of this bill is to allow the use of instruments issued by savings institutions as bid deposits and to raise the maximum amount of cashier's checks, certified checks, and certificates of deposit used as bid deposits.

Under section 103-28, Hawaii Revised Statutes, bids for public works contracts must be accompanied by a deposit of legal tender or by a certificate of deposit, cashier's check, or certified check on a bank that is insured by the Federal Deposit Insurance Corporation. Your Committee finds that savings institutions issue similar instruments insured by the Federal Savings and Loan Insurance Corporation. This bill will allow certificates of deposit, cashier's checks, or certified checks of savings institutions insured by the Federal Savings and Loan Insurance Corporation as bid deposits for public works contracts.

Further, pursuant to section 103-28, Hawaii Revised Statutes, a certificate of deposit, cashier's check, or certified check may be utilized only to a maximum of \$40,000. Your Committee finds that banks and savings institutions have had their insured account limits raised to \$100,000. This bill increases the maximum amount of cashier's checks, certified checks, and certificates of deposit allowed as bid deposits from \$40,000 to \$100,000.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1726-84, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 553-84 Ways and Means on H.B. No. 1946-84

The purpose of this bill is to appropriate funds for personal care services for eligible medical assistance recipients.

Your Committee finds that the provision of in-home services such as personal care services enables disabled and elderly persons to maintain relatively independent lifestyles and retain their dignity while at the same time preventing unnecessary and costly institutionalization, usually at government expense.

Your Committee has amended this bill by reducing the total appropriation from \$500,000 to \$175,000, and reducing the sums to be expended by the department of social services and housing and the executive office on aging to \$150,000 and \$25,000, respectively.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1946-84, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1946-84, S.D. 2.

Signed by all members of the Committee.

SCRep. 554-84 Ways and Means on H.B. No. 2092-84

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

In its analysis of the judiciary's supplemental budget, your Committee is mindful of both the State's uncertain financial condition and the judiciary's objective to better implement its caseload. Your Committee is therefore in support of programs it considers conducive to efficient and effective judicial operations.

A Master Calendaring System has been provided for in Circuit Court to aid expedition of its caseload and thus, reduce work backlogs. The establishment of an office of the public guardian has also been supported as a pilot, as your

Committee finds that such a program will fill a serious need for incapacitated persons who cannot be legally responsible.

This bill has been amended to reduce the Judiciary's appropriation from \$38,093,074 to \$36,682,818 for fiscal year 1984-85. Your Committee has further amended this bill to provide \$11,173,000 in general obligation bonds to finance capital improvement projects for fiscal year 1984-85.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2092-84, 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. 2092-84, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 555-84 (Majority) Ways and Means on H.B. No. 1549

The purpose of this bill is to promote Hawaii as an Olympic training center for athletes who have the potential for competing in the summer games of the world Olympic games. The director of planning and economic development is responsible for implementing the bill.

This bill also establishes a sports medicine center within the School of Medicine of the University of Hawaii. The sports medicine center will conduct research in the causes, prevention, cure, and treatment of injuries resulting from sports activities; recommend measures to mitigate or prevent injuries from sports; provide treatment to athletes training and competing in world Olympic games; and conduct educational classes for persons in related areas.

Your Committee finds that the establishment of a properly organized, funded, and functional sports medicine center is essential to the designation of Hawaii as an Olympic training center. Your Committee agrees with the recommendation that the new swimming pool complex be considered as the physical location for the sports medicine center since space there has been allocated for a sports medicine physiology laboratory.

Faculty members of the medical school are currently conducting education and research in the treatment of sport-related injuries. In addition, they have worked in conjunction with the Department of Health, Physical Education and Recreation at the University of Hawaii, Manoa, in developing a curriculum leading to certification of athletic trainers.

Your Committee has amended this bill by adding a new section 3 which reflects the effect of the underscored material and renumbered section 3 as section 4.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1549, H.D. 1, as amended herein, and recommends that it pass Third Reading in the in form attached hereto as H.B. No. 1549, H.D. 1, S.D. 1.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 556-84 Transportation on H.B. No. 2078-84

The purpose of this bill is to provide a more flexible and less complex formula for appointing members to the Commission on Transportation.

Currently, the Commission serves only in an advisory capacity, and consists of one member from each major county, one member from each district of each major county, and three members at large. This bill provides that the Commission shall consist of not more than eleven members, with each of the four major counties being represented by at least one member.

Your Committee, after hearing testimony from the Department of Transportation, to the effect that the present formula is unwieldy and difficult to implement, finds that the general policy requiring apportionment within the basic island units need not apply to a commission which serves only in an advisory capacity.

Your Committee has amended the bill to ensure that the commission membership is divided in rough proportion to that of the population of the counties.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2078-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2078-84, H.D.1, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 557-84 Transportation on H.B. No. 2161-84

The purpose of this bill is to amend those sections of the Hawaii Revised Statutes relating to bicycles to conform with applicable provisions of the uniform vehicle code and to provide for more progressive and safer bicycle laws.

This bill, as received, (1) permits the use of moneys in the "bikeway fund" for the promotion of bicycling transportation and recreation; (2) changes the definitions of "bicycle" and "vehicle" and adds a new definition of "toy bicycle" for the purposes of Chapter 291C, Hawaii Revised Statutes; (3) makes amendments to chapter 291C, Hawaii Revised Statutes, the Statewide Traffic Code, relating to bicycles; (4) permits bicycle racing on public highways when the race is approved by local authorities; and (5) prohibits bicycle riding on business district sidewalks.

Your Committee received testimony from the Hawaii Bicycling League, City and County of Honolulu Council member Welcome Fawcett, the Honolulu Police Department, and the Department of Transportation favoring the intent of this bill to treat bicycles as vehicles for the purposes of the Statewide Traffic Code. Your Committee finds that it is appropriate that bicyclists be accorded generally the same rights and be subject to generally the same duties as the drivers of "vehicles", as they are now defined in the Statewide Traffic Code.

Your Committee also finds that moneys in the bikeway fund should not be used solely for bikeway capital improvement projects and maintenance and for debt servicing. Your Committee believes that the promotion of bicycling transportation and recreation are appropriate areas for the expenditure of bikeway fund moneys.

Based on the testimony received, your Committee has amended the bill to:

- 1) Clarify statutory language relating to when drivers of bicycles are under a duty to give information and render aid.
- 2) Add a new subsection (c) to Section 291C-16, Hawaii Revised Statutes, which clarifies when bicycle accidents must be reported to the police.
- 3) Delete from the proposed language of the bill the specific size of reflective material required on the sides of bicycles.

Your Committee has further amended the bill by making technical changes and numerous nonsubstantive changes which renumber and reorganize the sections and subsections of the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2161-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2161-84, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 558-84 Transportation on H.B. No. 2275-84

The purpose of this bill is to regulate the height of bumpers on motor vehicles with a gross vehicle weight rating of 10,000 pounds or less.

Currently, there are no regulations relating to bumper height for such vehicles. This bill limits the height of bumpers for motor vehicles with an exemption for motor vehicles, which at manufacture, have a bumper height in excess of that provided for in the bill. This bill also provides a definition of "bumper."

Your Committee received testimony from the State Department of Transportation supporting the bill. Based on testimony, your Committee has amended the bill by deleting the sentence beginning on line 13, page 1 of the bill as received and ending on line 16, page 1 and substituting therefor the following language:

"For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design to conform with the maximum bumper height requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail where the original bumper brackets were installed."

Your Committee finds that this amendment would prevent the installation of bumpers, bumper brackets, and attachments which would lower the bumper height but keep the rest of the vehicle extremely high above the ground creating an unstable center of gravity configuration.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2275-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2275-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 559-84 Transportation on H.B. No. 2337-84

The purpose of this bill is to require that motor vehicles manufactured since 1968 and motor vehicles manufactured prior to 1968, but originally equipped with a two light tail light assembly, operated on public highways, display two red tail lights instead of one. The bill also adds a new section to Chapter 291, Hawaii Revised Statutes, to require motorcycles and motor scooters to display one tail light only.

Currently, the law requires one red tail light on a vehicle. Thus, persons operating motor vehicles which have a tail light out are either not being cited or, if they are charged with a violation, are being acquitted. This bill will assist police officers to better enforce the tail light law.

Your Committee heard favorable testimony from the Department of Transportation, the Prosecuting Attorney of the City and County of Honolulu, and the Police Department of the City and County of Honolulu.

Your Committee finds that it is in the interest of public safety to require two tail lights on motor vehicles which are manufactured to have two tail lights.

Your Committee further finds that the tail lights on motor vehicles should be spaced as far apart as practicable and has amended the bill to reflect this finding.

Your Committee has further amended the bill by making technical changes which have no substantive effect and by placing the proposed statutory material of Section 2 of the bill as received in a new subsection (b) of Section 291-31, Hawaii Revised Statutes, rather than creating a new section.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2337-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2337-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 560-84 (Majority) Economic Development on H.B. No. 2201-84

The purpose of this bill is to provide the Public Utilities Commission (PUC) with statutory authorization to render interim decisions granting rate relief to a utility until such time as the PUC is able to render a final decision on the appropriate amount of permanent rate relief to which a utility company may be entitled.

Your Committee finds that the current statutory standard of nine months for the conclusion of rate cases is reasonable. Based on the National Association of

Regulatory Commissioners' Annual Report for 1981, the national average for telephone rate cases decided in that year was slightly less than seven months from the date of application until the final order. In 1982 the average was 7.12 months. According to the Regulatory Research Associate's report covering all state telephone and electric rate case decisions for the four-year period of 1980 through 1983, only 25 of over 900 decisions exceed 17 months, the time required in Hawaiian Telephone's last rate case.

Any delay of a rate decision is costly to the utility company, the State and County, and in the long run to the customers. While the utility gets to use about one-half of the increase, the other half goes to County, State, and Federal governments in the form of fees and taxes. Ratepayers can be adversely affected because the utilities' investors judge the utility company, in part, by its earnings record and demand higher interest on bonds and higher dividends for investing in utilities that do not have what they consider good earning records which results in higher operating costs. Thus, unanticipated and unreasonable delays deprive the utility company of a fair return, the governments of taxes, and customers of the lowest rate in the future.

It is the intent of this bill to enable the PUC to render interim decisions on utility rate applications and petitions. The interim decision does not necessarily authorize a rate increase and in no way is understood to be a final decision.

An amendment to the bill was proposed to require the PUC to conclude evidentiary hearings before rendering an interim rate decision. Your Committee finds however, that under section 269-16(d), Hawaii Revised Statutes, the Commission is mandated to make "every effort possible" to conclude its deliberations, which includes evidentiary hearings, within nine months from the date the public utility filed its completed application. Although your Committee recognizes the desirability of the PUC completing its evidentiary hearings prior to rendering an interim decision, in light of the mandate previously mentioned, such a requirement could result in diluting the intent of this measure to prevent undue delays in processing of rate cases.

Another amendment that was proposed was to add a new section to require full disclosure of information by the applicant utility. Your Committee finds that present PUC rules provide a process for full disclosure by utilities and that the Consumer Advocate has powers to perform audits of utilities or to make investigations at any time and further disclosure requirements are unnecessary at this time.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2201-84, 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 Cayetano and Fernandes Salling.
Senator Kawasaki did not concur.

SCRep. 561-84 Housing and Urban Development on H.B. No. 1799-84

The purpose of this bill is to amend section 516-51, Hawaii Revised Statutes, to preclude an opposing or adverse party from introducing offers, appraisals, or other substances of negotiations as evidence in any action brought under Chapter 516, Hawaii Revised Statutes, after a leasehold tract has been designated for conversion to fee simple and when these matters were not prepared for use in trial.

It is the intent of this bill to encourage open and honest discussions during preliminary negotiations for fee simple conversion by assuring lessors and lessees that information disclosed during these negotiations cannot be used against them in proceedings brought under Chapter 516, Hawaii Revised Statutes.

Your Committee has added language to page 1, lines 8 and 14 of this bill as received to further clarify its intent. Specifically, the amendment inserts the words "by a party" at line 8 and the words "by an opposing or adverse party" at line 14.

The present-day land ownership system in the State is characterized by a concentration of the fee title to lands in the hands of a few. At present the

majority of all privately held land in the State is owned by this small group of owners. Much of this land is in the developing urban areas of the State, where single-family residential lots are in short supply.

The shortage of single-family residential, fee simple property, has deprived people of a real choice between fee simple and leasehold residential property and has in turn caused land prices for both fee simple and leasehold residential lots to become artificially inflated

Your Committee finds that in light of the recent substantial lease rent increases of several hundred per cent for residential houselots in Hawaii and the State's pending appeal to the United States Supreme Court regarding the constitutionality of the Hawaii Land Reform Act, a moratorium on residential lease rent increases is both reasonable and justified. A moratorium will provide the necessary time to await the United States Supreme Court's ruling on the Hawaii Land Reform Act and to study various proposals to limit lease rent increases. Your Committee finds that the ability of lessees of residential leases to derive full enjoyment from their leaseholds are factors which vitally affect the economy of the State and the public interest, health, welfare, and security.

Accordingly, your Committee has amended the bill by inserting three new sections to the bill. Specifically, the sections: 1) Provide a statement of the findings and purpose of a moratorium on all increases of lease rent for privately owned residential houselots; 2) Declare a moratorium on increases of lease rent for all privately owned residential houselots to take effect upon passage of this bill until June 30, 1985; 3) Provide an exemption from the moratorium for lessees who need to renegotiate leases for purposes of financing; 4) Determine the method by which the lease rent shall be computed in the event of renegotiations of leases for financing purposes; and 5) Provide for severability of any invalid provisions of this bill.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1799-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1799-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 562-84 Housing and Urban Development on H.B. No. 1985-84

The purpose of this bill is to allow the Hawaii Housing Authority (HHA) to execute quitclaim deeds to dispose of property under chapter 359G, Hawaii Revised Statutes, unless otherwise provided by law.

Testimony received from the Hawaii Housing Authority indicated that other state agencies, notably the Department of Land and Natural Resources, normally execute quitclaim deeds when disposing of state lands. While the HHA has successfully issued quitclaim deeds to individuals, corporations, partnerships and other county agencies, in recent years the County of Hawaii has required the HHA to deliver warranty deeds for the disposition of property. It is, however, the practice of the County of Hawaii to issue quitclaim deeds when that county seeks to transfer property. Your Committee finds that the HHA should not be held to a higher standard with regard to the issuance of deeds than the counties themselves.

Through testimony, the HHA recommended that the language of the bill also be incorporated into chapters 356, 359 and 516, Hawaii Revised Statutes, since these chapters also involve the disposition of real property by the HHA. Your Committee concurs with the HHA's recommendations and has amended the bill accordingly.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1985-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1985-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 563-84 Housing and Urban Development on H.B. No. 1796-84

The purpose of this bill is to clarify that the expenses and fees incurred by

the Hawaii Housing Authority or its designee in arbitrating lease rent renegotiations pursuant to Chapter 519, Hawaii Revised Statutes, shall be paid equally by lessors and lessees.

Currently, the law provides that in the event parties to a lease are unable to achieve an agreement under any lease rent reopening provision, the Hawaii Housing Authority or its designee shall arbitrate and its findings shall be binding and conclusive. Although lease documents generally state that lessors and lessees shall be responsible for their pro rata share of all costs incurred during any arbitration proceedings, the absence of specific language in the law may be misconstrued to mean that the State should bear the burden of all such expenses.

Specifically, the bill provides certain requirements for arbitration proceedings under subsections 519-2(b), Hawaii Revised Statutes, relating to residential leases, and 519-3(b), Hawaii Revised Statutes, relating to leases of real property by cooperative housing corporations. The bill:

- (1) Requires the collection of an advance deposit from lessors and lessees; provides for payment for expenses and fees on a monthly basis; and clarifies procedures for the allocation of arbitration costs in the event of more than one lessor or lessee to an arbitration proceeding;
- (2) Provides for the loss of certain rights and remedies by a party who fails to comply with the provisions for payment; and
- (3) Defines "arbitration proceedings" to clarify what services are to be paid for by lessors and lessees.

Your Committee has amended the bill by making nonsubstantive changes for purposes of clarity and conformity with recommended drafting style.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of H.B. No. 1796-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1796-84, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 564-84 Human Resources on H.B. No. 1926-84

The purpose of this bill is to clarify and declare the intent of the legislature in regard to subsequent injuries occurring on or after May 15, 1982 which would increase a worker's disability.

The legislature believes that it is contrary to public policy to limit the protection of section 386-33, Hawaii Revised Statutes, to circumstances in which the employee's previous disability predates the date of hiring. As it has been in the past, it is the concern of the legislature that discrimination in the work place against the handicapped be eliminated or alleviated to the greatest extent possible. Review of the legislative history of section 386-33, Hawaii Revised Statutes, reflects a concern primarily focusing on hiring practices involving the handicapped without making a distinction in policy between a hiring case and a retention case.

This bill is intended to encourage employers to hire, retain and promote injured employees by requiring payment from the special compensation fund for a previous disability in the event that an employee sustains a subsequent injury on the job. This policy can be best served by affording protection not only to employers who hire previously injured workers but also to those employers who retain employees who develop a handicap during a single period of employment.

Traditionally, workers' compensation has been considered an insurance program which replaces tort remedies available to workers and socializes the risks involved. In more recent times the workers' compensation system has had to accommodate itself to an evergrowing number of cases involving heart attack, stroke, cancer, mental diseases and other conditions which in medical terms may not be caused by employment. Prevailing opinion characterizes these diseases as developmental, a composite product of genetic and environmental factors and lifestyle generally, including employment. As the ultimate symptoms of these

disease tend to manifest themselves in a very delayed fashion, employers may be unaware of the existence of such conditions at the time of hiring or during the course of an extended period of employment. The legislature thus believes an employee's rights and remedies should be controlled by the law in effect at the time when the injury occurs.

Your Committee thus agrees with testimony from labor unions, businesses and the insurance industry that in light of the March 9, 1983 Hawaii Supreme Court ruling in Survivors of Wallace Medeiros v. Maui Land and Pineapple Company, the legislature must clarify its intent to encourage employers to retain an injured employee without penalizing those employers. Consequently, the special compensation fund should be used to apportion liability, in order to fully compensate an injured employee and encourage employers by limiting their responsibilities to the effects of the last injury during employment. Noting that Medeiros construes a statutory provision which is no longer in effect, the legislature accepts the rationale of the United States Court of Appeals for the Ninth Circuit in Director, Office of Workers Compensation Programs, United States Department of Labor, Petitioner, v. Cargill Inc. and Northwest National Insurance Co., Respondents decided on July 1, 1983. It is significant that the Cargill decision parallels section 386-33, Hawaii Revised Statutes, as amended by Act 93 in 1982, by expressly providing that apportionment is appropriate where the previous disability exists prior to an injury without requiring the previous disability to predate the date of hiring.

Your Committee has amended the bill by modifying proposed subsection (c). Your Committee believes that this amendment will aid the administrative agencies and courts in adjudicating many workers' compensation cases currently pending as well as those claims to be filed in the future.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1926-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1926-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 565-84 Human Resources on H.B. No. 2429-84

The purpose of this bill is to extend the time period in which a complaint alleging unlawful suspension or discharge of an employee may be filed.

Currently, the law provides that complaints must be filed within thirty days of the alleged unlawful act. This bill provides that the thirty day period shall begin after the act or after the employee learns of the suspension or discharge.

Your Committee finds that this measure will protect the rights of persons who through no fault of their own, later become aware of their unlawful suspension or discharge and under current law may be unable to file a complaint.

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

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2429-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2429-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 566-84 Human Resources on H.B. No. 2044-84

The purpose of this bill is to exempt the Public Employees' Health Fund from the requirements of Chapter 431A, Hawaii Revised Statutes.

Chapter 431A, Hawaii Revised Statutes, requires each insurance company to use simplified language to explain benefit plan coverages, in order to protect insureds from the use of technical jargon which might mislead or confuse them as to their benefit rights.

In the case of the Public Employees' Health Fund, this issue is addressed through the training of personnel and fiscal officers to assist employees and

retirees in understanding the benefits they receive. Educational and informational workshops are regularly conducted to provide members with an opportunity to obtain information and answers to questions directly from health fund personnel. In addition, informational booklets are distributed to employees and retirees, and health fund personnel are always available at their office to answer any inquiries that members may have. Yet, despite this comprehensive program of information and education, the Public Employees' Health Fund must still comply with Chapter 431A, Hawaii Revised Statutes, at the cost to the taxpayers of more than \$6,000 when the Fund issues its next life insurance certificates.

Your Committee heard testimony in support of this bill from the administrator of the Public Employee's Health Fund and the Insurance Commissioner and finds that the sustained program of education and information provided by the Fund to its beneficiaries substantially fulfills the purpose of Chapter 431A, Hawaii Revised Statutes, and that further expenditures to comply with Chapter 431A are unnecessary and contrary to the public interest.

Your Committee amended the bill by deleting the proposed amendments to section 87-22 and inserting amendments to section 431A-8 which appears to be the more appropriate place to effect the intent of this bill. Your Committee also reworded the amendment to clarify that the exemption applies only to plans developed specifically for the Public Employees' Health Fund and to no others.

Your Committee has further amended the bill to insert a provision which amends Act 299, Session Laws of Hawaii 1983, which imposed the current moratorium on increases in workers' compensation insurance premium rates. Pursuant to Senate Resolution No. 80, requesting your Committee "to review the moratorium provisions governing increases in workers' compensation premium rates and if it determines that changes should be made to the moratorium period or other provisions, to recommend such changes in appropriate amending legislation," your Committee has determined that the public interest will best be served by changing the expiration date of the moratorium from December 1, 1984 to June 30, 1985.

This change will permit the Legislature to review the final report of the workers' compensation study which is being conducted through the Legislative Auditor and which is scheduled to be submitted to the 1985 session. Such changes to the workers' compensation program as the Legislature may make in the 1985 session can then be taken into account in rate filings submitted to the Insurance Commission for approval subsequent to June 30, 1985.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2044-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2044-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 567-84 Judiciary on H.B. No. 2268-84

The purpose of this bill is to expressly allow grandparents the same rights of reasonable visitation as the parents and any other person interested in the welfare of the child, under section 571-46(7), Hawaii Revised Statutes.

Presently, while the statute on visitation does not preclude the Family Court from awarding reasonable visitation rights to the grandparents, it does not specifically permit such visitation rights.

Your Committee received favorable testimony on this bill from the Family Court, which indicated that in any action, the child's best interests may be furthered by continued contacts with the child's grandparents.

Your Committee made technical, nonsubstantive amendments to the bill to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 2268-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2268-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 568-84 Judiciary on H.B. No. 1845-84

The purpose of this bill is to amend section 580-75, Hawaii Revised Statutes, by requiring that a decree of separation shall have the effect of allowing each spouse to perform any legal act as if the spouse were a single person. Under the present law, protections concerning separations under a decree only make reference to the status of the wife.

Your Committee has received favorable testimony from the Commission on the Status of Women of the City and County of Honolulu and the Hawaii Women Lawyers.

Your Committee finds that deleting gender-specific language from section 580-75 of the Hawaii Revised Statutes and substituting words which apply to both genders is in accord with Hawaii's Equal Rights Amendment and the 1978 State Constitutional Convention's Amendment to the Constitution.

Your Committee made a technical, nonsubstantive amendment to the bill to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1845-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1845-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 569-84 Judiciary on H.B. No. 1863-84

The purpose of this bill is to insert a reference to a statutory chapter in §707-726(1), Hawaii Revised Statutes, in place of a reference to a statutory chapter that needs to be deleted because it was repealed in 1982.

This bill is a housekeeping measure. Chapter 585, relating to Ex Parte Temporary Restraining Orders, was repealed in 1982, and Chapter 586, relating to Domestic Abuse Protective Orders, was enacted in its place. However, Hawaii Revised Statutes 707-726(1) was not also amended to change the reference to the new chapter.

Your Committee amended the bill by creating two subparagraphs to clarify that violations of Chapter 586 are intended to be covered under custodial interference in the first degree. The present language is vague, resulting in the recent dismissal of a charge under this section.

Your Committee also made technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1863-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1863-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 570-84 Judiciary on H.B. No. 1838-84

The purpose of this bill is to amend Sections 572-1 and 580-21, Hawaii Revised Statutes, by repealing references to impotency or physical incapability to enter into the marriage state as a bar to a valid marriage contract and as a cause to void a marriage contract.

Your Committee heard favorable testimony from the Hawaii State Commission on the Handicapped and the Committee on the Status of Women of the City and County of Honolulu on this bill.

Your Committee agrees that the requirement of physical acts for the execution of valid marriage contracts results from the notion that the primary purpose in marrying is to bear children. This is a narrow and outdated view which may prevent some persons who are physically handicapped, elderly, or have temporary physical limitations from entering into a valid marriage relationship. This view is archaic and may be a violation of the constitutional rights of such persons.

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. 1838-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1838-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 571-84 Economic Development on H.B. No. 2203-84

The purpose of this bill is to require that all storage water heaters sold or installed in Hawaii after December 31, 1984, meet the energy efficient standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Incorporated (ASHRAE), Standard 90, as amended.

Testimony in favor of this bill was submitted by the Plumbing and Mechanical Contractors Association and the Executive Vice-President of PRI Energy Systems. The Uniform Building Codes for the counties of Honolulu, Hawaii and Kauai contain water heater standards which conform to ASHRAE standards for new and renovated structures. However, there is no assurance that all water heaters installed in these counties conform to ASHRAE standards since the building codes for the three counties prohibits only the installation and not the sale of non-efficient water heaters. The continued unrestricted sales of non-energy efficient water heaters permits their installation in existing buildings, since no building permit is required to replace a water heater. Thus, the Building Departments have no way to enforce the code requirement that all heaters installed meet ASHRAE 90 Standards through the current building permit process.

Your Committee finds that the bill promotes energy conservation and enhances efforts to attain Hawaii's goal of energy self-sufficiency. There would be a savings in energy costs to consumers and a reduction of imported petroleum to furnish electricity and gas.

Your Committee amended the bill by extending the deadline for sellers and manufacturers of storage water heaters to comply with the provisions of this bill to December 31, 1985. This would provide sellers and manufacturers adequate time to reduce their existing inventory and stock products that are in compliance with this bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2203-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2203-84, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 572-84 Economic Development on H.B. No. 1711-84

The purpose of this bill is to include the commercialization of natural energy resources in the function of the Natural Energy Laboratory of Hawaii (NELH).

The NELH consists of 328 acres of shorefront property at Keahole, between the Kailua-Kona airport and the ocean.

NELH has been the site of many important OTEC-related experiments, including OTEC-aquaculture. It is the only laboratory of its kind capable of providing cold, nutrient-rich water to research and commercial operations. Ongoing projects include both closed-cycle and open-cycle OTEC research, cold water salmon, abalone, metals corrosion, and solar salt pond research.

Your Committee finds that the possibility of commercialization at NELH could make NELH a more attractive research site. By providing a development site to include commercial activities there is a greater likelihood that research at NELH will result in jobs for the people of Hawaii, tax revenues, and a new experience in ocean and natural energy industries. In a project's transition from research to development to commercialization, more and more residents of Hawaii could be trained to assume greater and greater responsibilities in the industry being developed.

Your Committee further finds that it is not the intent that commercialization displace research as the primary mission of the NELH.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1711-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1711-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 573-84 (Majority) Economic Development on H.B. No. 2107-84

The purpose of this bill is to provide for retention and utilization of property forfeited under the provision of Section 199-7, Hawaii Revised Statutes.

The intent of this bill is similar in effect to federal statutes which provide for forfeiture and use of forfeited equipment and property.

As received by your Committee, the bill amended Section 199-7, Hawaii Revised Statutes, as worded prior to amendments made to that section during the 1983 legislative session. Your Committee has amended the bill to make the proposed changes applicable to the present wording of the section. Your Committee further amended the bill to make technical changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2107-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2107-84, H.D. 1, 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. 574-84 Economic Development on H.B. No. 177

The purpose of this bill is to clarify the role of state functional plans under the Hawaii State Planning Act by expressly stating that the plans are to be used as "statements of policy to guide in decision making" by state agencies in the conduct of their respective programs, processes, and activities.

Out of concern for Hawaii's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as the Hawaii State Plan. Legislative participation in the overall government planning process is contained in the Act's broad goals, objectives, policies, and priority directions intended to direct the State's future growth and development, and the submittal of twelve functional plans for specified areas of governmental activity to the Legislature.

Since the adoption of the Hawaii State Plan, the Legislature has considered several drafts of the functional plans and has discussed concerns relating to coordination and conflict among plans, as well as the role and force of these plans in policy formation and decision making. Before the final adoption of the functional plans, it is imperative that their relationship to the programs of State agencies and their role in decision making be clarified in Chapter 226, Hawaii Revised Statutes.

Under present law, State agencies are required to be "in conformance" with the functional plans, whereas county agencies are only required to consider the plans as "guidelines". The bill, as originally drafted, proposed to amend certain sections of Chapter 226, Hawaii Revised Statutes, to state that the plans are to be used as "guidelines" by state agencies. The bill has since been amended to expand the role of the plans to be "statements of policy to guide in decision making."

Your Committee finds that the current proposed amendments to Chapter 226, which would require State agencies to utilize the plan as "statements of policy to guide decision-making," might serve to confuse the issue of how the functional plans should be interpreted. Given the possible conflicting

interrelationships between plans, and even possible instances of the individual plans lacking internal consistency, to use them as "statements of policy" could be a source of conflict and problems in the future. The connotations of the word "policy" imply a stringent adherence to documents which were not intended to be used in a strict, consistent, legal context. Therefore, your Committee amended the bill to delete implications for mandatory compliance.

After extensive consideration of chapter 226 your Committee finds that there is language in the Hawaii State Planning Act that would severely inhibit and contravene legislative prerogative, especially with regard to budget deliberations. Your Committee further finds that if the functional plans are adopted pursuant to Chapter 226, Hawaii Revised Statutes, they would impose mandatory conformance by the various agencies of the State and the Legislature. While the functional plans are considered "living" documents subject to revision, mandatory conformance intrudes on the Legislature's role to set public policy. As the branch of government directly responsible from the formulation of policy, the Legislature ought to be afforded the maximum latitude in pursuing solutions to the problems at hand. While the Legislature should be cognizant of the recommended solutions put forth by sound planning efforts, discussion of recommended solutions is clearly distinct from mandatory conformance to such solutions. In this light, the functional plans, and the goals, objectives, and priorities ought to remain as guidelines to the Legislature for its consideration. Your Committee finds that there is a potential for serious problems as a result of allowing the Hawaii State Planning Act to remain unamended.

In considering the relationship of the functional plans to county general and development plans, your Committee finds that the Hawaii State Plan does contain language that may be construed to require mandatory conformance to implementation of State Plan policies, objectives, and implementing actions.

Your Committee has amended the bill to ensure that to state, county, and private agencies, the elements of the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, and the state functional plans adopted pursuant to that Chapter are guidelines for consideration through each agency's decision making deliberations. Due consideration ought to be given to the guidelines, but they shall not be construed to effect mandatory conformance. All references to mandatory conformance have been deleted. Instead, consideration for each element of the State Plan and the functional plans has been substituted.

Similarly, all references requiring mandatory conformance of the county general plans and development plans to the State plans and functional plans have been deleted. The references in the bill which specify the contents of the county general plan and development plan (Section 226-61, Hawaii Revised Statutes) are intended to specify that those elements of planning are delegated to the counties. These sections are not intended to mandate the counties to compose their plans accordingly.

Further, all references to "priority directions" have been amended to "priority guidelines" to reflect the intent of your Committee.

In no way are your Committee's amendments intended to preclude the Legislature or other state or county agencies from considering the priorities expressed in the functional plans. Your Committee has made the foregoing amendments to dispel any concerns regarding the legal standing of the functional plans.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 177, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 177, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 575-84

Human Resources on H.B. No. 1748-84

The purpose of this bill is to repeal the existing lie detector test statutes and replace it with statutes providing appropriate remedies available to those forced to submit to lie detector tests or other devices for purposes of truth verification.

Current law provides that it is unlawful for an employer to require an

employee or a job applicant to submit to a lie detector test as a condition of employment or continued employment. A fine of not more than \$1,000 or imprisonment of not more than one year, or both is provided.

Your Committee finds that this bill: (1) assigns the authority to enforce the law to the Department of Labor and Industrial Relations (Department); (2) provides appropriate remedies to the aggrieved parties; (3) authorizes the Department to levy and collect fines; and (4) provides that the Attorney General or public prosecutors have the authority to initiate civil and criminal actions; and (5) provides a penalty of not less than \$100 nor more than \$1,000 for each violation by an employer; and a fine of \$500 or imprisonment of not more than 90 days or both for intentional violations or interfering with the Department's enforcement authority.

Your Committee received testimony from the Department of Labor and Industrial Relations, the American Civil Liberties Union, Merit Protective Service of Hawaii, DETEK, Inc., ILWU Local 142, and several independent Hawaii businesses and, after due consideration, finds as follows:

- (1) While the present Part II of Chapter 378, Hawaii Revised Statutes, limits the use of lie detector tests in the employment context, a more comprehensive statutory scheme is needed to fully protect employees from unreasonable intrusions on privacy and to provide a mechanism for sufficient enforcement of the law.
- (2) The scope of allowable preemployment lie detector test questioning must be limited, in order to afford protection to prospective employees, who are vulnerable to abusive practices.
- (3) Towards the end of protecting highly held individual rights, the use of testing devices which involve any unreasonable physical intrusion must be prohibited.
- (4) In light of constitutional due process guarantees, the Department's determinations of violations of law under this part should be made after hearings held in conformance with Chapter 91, Hawaii Revised Statutes.
- (5) A complainant should be able to pursue a civil action pursuant to a notification of right to sue issued upon a written request of the complainant.
- (6) In the interest of fairness and to advance the purposes of this bill, an award of costs, including fees and attorney's fees, to a prevailing party at the court's discretion in an action brought under this bill should be allowed.
- (7) There is legitimate concern over potential abuses by lie detection examiners. However, in testimony, several professional lie detection examiners have given assurances that the Board of Private Detectives and Guards will be responsible for licensing and reviewing all polygraph examiners in a manner which will prevent misconduct. Therefore, your Committee relies on assurances that applicable regulations will be established in the immediate future.

Your Committee further finds that this bill adequately addresses the above stated concerns and is in the public interest.

Upon further consideration, your Committee has amended the bill by providing that it is unlawful for an employer to ask whether an employee or prospective employee is willing to submit to a lie detector test without orally informing the employee or prospective employee that the test is voluntary and that a refusal to submit to the test will not jeopardize the employee's hiring or continued employment.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1748-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1748-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 576-84 Agriculture on H.B. No. 2179-84

The purpose of this bill is to allow the use of electrically charged attachments on fences built along the boundary of any government road or within the exterior boundaries of any leased public land or any privately owned land for the purpose of confining animals or protecting farms against the trespass of animals.

Currently, the use of electrified fences is prohibited along the boundary of any government road. This bill would allow electrified fences, provided that the electrically charged attachments are affixed only to the interior side of the fence so no person can be injured as a result of touching the exterior of the fence or fence post.

Your Committee finds that electrified fences do not pose a threat to the public's safety, and that they provide the benefits of increased efficiency in livestock operations, and decreased incidences of stray animals on public highways and lands.

Your Committee is concerned about the State's liability and, therefore, has amended the bill to provide that any person who constructs or maintains an electrically charged fence or fence with electrically charged attachments shall defend, indemnify, and hold harmless the State, County, or other public entity from all claims, suits, or judgements arising from the use of an electrically charged fence.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2179-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2179-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 577-84 (Joint) Agriculture and Economic Development on H.B. No. 2540-84

The purpose of this bill is to include dairying in the definition of "agricultural processing" in section 171-59, Hawaii Revised Statutes.

Currently, section 171-59, Hawaii Revised Statutes, allows the Board of Land and Natural Resources to directly award leases of public land for airline, aircraft, agricultural processing, marine, and maritime operations, provided that the disposition encourages competition within those industries.

This bill would allow persons engaged in dairying to obtain such leases by specifically including dairying within the definition of "agricultural processing."

Upon consideration, your Committees have amended the bill to include "cattle feed production" as one of the activities for which direct leases may be obtained from the Board of Land and Natural Resources. Your Committees find that allowing cattle feed production as an activity eligible for direct leases will benefit the State by allowing local beef producers to become more competitive with mainland producers.

Your Committees further amended the bill by adding a drop dead clause of December 31, 1988 for the direct lease of public lands for cattle feed production.

Your Committees on Agriculture and Economic Development are in accord with the intent and purpose of H.B. No. 2540-84, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2540-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 578-84 Ways and Means on H.B. No. 2151-84

The purpose of this bill is to (1) extend indefinitely the transfer of general excise tax revenues collected on the sale of fuel to the state highway fund; (2) designate July 1 of each year as the date the Director of Taxation must establish a formula that determines the amount of taxes derived from the sale of fuel

to be deposited into the state highway fund; and (3) increase the general excise tax rate on sales of liquid fuel, the state vehicle registration fee, and the state vehicle weight tax.

Under present law state vehicle registration fees, state fuel taxes, and state vehicle weight taxes provide permanent sources of revenue for the state highway fund. Because of the decrease in gasoline used per vehicle due to better fuel efficiency and decreased automobile usage, revenues derived from the state fuel tax have diminished while at the same time, the costs of building and maintaining highways and related facilities and equipment have increased dramatically.

Your Committee has considered the solution offered by the various committees that have considered the highway fund problem and has heard extensive testimony. At this time your Committee does not believe that sufficient information is available to make a final determination as to whether or for how long the transfer of the general excise tax should continue or whether the gas tax, registration fee, or the state vehicle weight tax should be increased. Desirous of solving this problem, but wishing to have further information, your Committee has amended this bill by deleting the date by which the transfer of the general excise revenue funds will cease, and the monetary amounts suggested by your Committee on Transportation for the gas tax, registration fee, and the state weight tax. In this manner, the bill may be considered further in conference.

Your Committee made technical, nonsubstantive amendments, including an amendment inserting an effective date for the Act where there had previously been an effective date only for certain sections of the Act.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2151-84, 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. 2151-84, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Mizuguchi, Uwaine and Henderson.

SCRep. 579-84 Consumer Protection and Commerce on H.B. No. 556

The purpose of this bill is to establish clear guidelines for the self-service storage industry and to statutorily provide consumers who use these storages with specific rights and safeguards for the disposition of their property should they fall into arrears in their rental payments.

Currently, the self-service storage industry is without legislative guidelines or definitions. This bill requires that contracts between the consumer and the owner of the storage facility be in writing and shall inform the consumer of the owner's recourse in the event the consumer fails to discharge obligations under the storage rental agreement.

The bill provides that an owner may deny access to the consumer if the consumer is fifteen consecutive days in default of payment. The owner must then provide a notice to the consumer that the possibility of a lien exists if payment is not made within fifteen days, following which an actual notice of lien may be issued. However, before the owner may take further action, an additional notice must be sent to the occupant. This notice must include a statement that the property will be sold in order to satisfy the lien. The impending sale must then be advertised once a week for two consecutive weeks in a newspaper of general circulation, or posted in public.

Your Committee heard favorable testimony from the Hawaii Business League and The Spare Closet, a self-storage business, and finds that this measure will substantially reduce disputes and litigation arising out of misunderstandings between owners and consumers.

Your Committee has amended the bill as follows:

- 1) deleting the provision that the advertisement of the sale of the occupant's property may be posted in not less than six conspicuous places in the neighborhood of the proposed sale in lieu of publishing the advertisement of the sale in a newspaper of general circulation; and

- 2) requiring that all notices sent by an owner to an occupant be sent to both the occupant's address and the alternative address if the occupant provides an alternative address.

Your Committee has further amended the 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. 556, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 556, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 580-84 Consumer Protection and Commerce on H.B. No. 1779-84

The purpose of this bill is to provide the Real Estate Commission with authority to more effectively regulate the real estate industry.

Since 1974, the Real Estate Commission by rule has prohibited the use of a trade name, corporate name or partnership name that contained the name, initials or nickname of an unlicensed person or salesman. The Attorney General, however, rendered an opinion that the Commission was not authorized to adopt such a rule.

This bill authorizes the Real Estate Commission to regulate real estate company names to insure that an individual whose name is used in a company name is licensed as a broker. This would assure the consumer that the person whose name is being used in the company name is associated with the company and possesses the experience and necessary qualifications required of licensed brokers.

The bill also extends the authority of the Real Estate Commission to discipline real estate licensees. Presently, the Commission's authority is limited to Chapter 467 of the Hawaii Revised Statutes on real estate brokers and salesmen. Thus a licensee could violate Chapter 484 (Subdivision), Chapter 514A (Condominium), Chapter 514E (Timesharing) and Chapter 515 (Discrimination in Real Property Transactions) and continue to hold a license if the licensee's actions do not fall within any of the prohibited conduct in Chapter 467 (the licensing chapter). This bill would extend the Commission's authority to discipline licensee violations of Chapter 484, 514A, 514E and 515.

Finally, the bill increases the penalty for violating the aforementioned Chapters of the Hawaii Revised Statutes by establishing \$1,000 as the fine for each violation rather than as an aggregate amount.

Your Committee amended the bill by making a technical nonsubstantive change to conform the bill to recommended drafting format and to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1779-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1779-84, 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, Kuroda and Soares.

SCRep. 581-84 Consumer Protection and Commerce on H.B. No. 1817-84

The purpose of this bill is to extend the existence of the Board of Acupuncture until December 31, 1990.

Under Chapter 26H, Hawaii Revised Statutes, Chapter 436D relating to the Board of Acupuncture is scheduled to be repealed on December 31, 1984. This bill postpones repeal of the chapter until December 31, 1990.

Your Committee finds that there is sufficient potential harm to the public's health, safety, and welfare to warrant the continued regulation of the acupuncture profession. The improper insertion of needles which can cause injury or

even death, the use of unsterilized needles, and inadequate antiseptic procedures which have the potential for transmitting communicable diseases, are three important reasons for retaining the Board of Acupuncture.

After extensive consideration your Committee amended the bill by:

1. Requiring acupuncturists to provide prospective patients, prior to treatment, with a written disclosure of the scope, limitations, and potential risks of the practice of acupuncture, possible alternatives to treatment, and to obtain the informed consent of the patient.
2. Allowing students of acupuncture to practice on human subjects under direct supervision. Your Committee concurs with the recommendation contained in the Legislative Auditor's Sunset Report on Acupuncture (Report No. 84-6) that since most other health related professions allow students to practice on human subjects under direct supervision or controlled circumstances prior to licensure, a similar provision should be made for acupuncture students.
3. Prohibiting the Board of Acupuncture from requiring licensure applicants to answer any question which is not listed on an examination form or interviewing an applicant after completion of an examination to determine an applicant's additional or lack of qualifications. The Legislative Auditor's report found that at present, examiners ask licensure applicants questions which are not on the examination form. The Board of Acupuncture's rules allow the Board to ask for additional information without specifying the Board's intentions or purpose. Your Committee concurs with the Legislative Auditor's recommendation to prohibit the Board from obtaining this kind of additional information since the procedure is manifestly unfair and may not be applied uniformly or with objectivity and impartiality.
4. Deleting the requirements that applicants provide proof that they are residents of the State and are of good moral character. Residency requirements have been ruled by the courts to be unconstitutional and your Committee finds the term "good moral character" to be ambiguous.
5. Prohibiting the Board of Acupuncture from requiring applicant to provide a physician's certificate that they are not suffering from any communicable disease, a blood test report for syphilis, and a chest X-ray for tuberculosis. Your Committee concurs with the Legislative Auditor's recommendation that it is unnecessary to single out acupuncturists since other health care professionals are not required to prove that they are free of tuberculosis or syphilis before they are licensed.
6. Requiring the Board of Acupuncture and the Department of Commerce and Consumer Affairs to work jointly towards improving the Board's licensing examinations. The Legislative Auditor's report found numerous problems with the Board's examinations. First, the written examination is unreliable and of questionable validity; second, the oral-practical and clinical examinations are not completely standardized; third, the anonymity of applicants is not protected; and fourth, passing scores on examinations are not based on valid minimum levels of competency. Your Committee concurs with the Legislative Auditor in requiring the Board to take specific measures to improve its examinations.
7. Requiring the Department of Commerce and Consumer Affairs to assist the Board in fulfilling its statutory responsibilities and in redirecting its effort toward improving and implementing standards for licensure and the issuance, suspension, and revocation of licenses. The Department is also required to enlist the assistance of the State Ethics Commission to review the actions of the Board and to suggest how conflicts of interest may be avoided. The Legislative Auditor's report found that some Board members have participated openly in official actions in which they have a personal interest and that the Board has failed to enforce the law and its own rules and have sought changes which would have the effect of restricting entry into the profession. Your Committee concurs with the Legislative Auditor that specific measures need to be taken to improve the performance of the Board.

Your Committee has also amended the bill by including a severability clause.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1817-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1817-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Uwaine and Soares.

SCRep. 582-84 Consumer Protection and Commerce on H.B. No. 1818-84

The purpose of this bill was to extend the time for repeal of the Board of Nursing until December 31, 1990.

This bill will permit the continued regulation of nursing in Hawaii. Your Committee finds that the practice of nursing encompasses many life threatening situations and that there is a continued need to regulate both the practice of nursing and the training of nurses to ensure the protection of the public's health and safety.

Your Committee amended the bill by : (1) Adding a new section two to the bill which would require the Board of Nursing to monitor laws of other states and make recommendations to the Legislature on amendments to the definition of "the practice of nursing." The Legislative Auditor found that the definition of nursing in Chapter 457, Hawaii Revised Statutes, is almost three decades old and does not completely reflect current nursing practices. Your Committee finds a need for the Board of Nursing to monitor the regulation of expanded and specialized nursing practice in other states and evaluate and suggest to the Legislature appropriate amendments that could be made to the definition of nursing in order to enhance the practice of nursing in Hawaii;

(2) Adding a new section three which would require the executive secretary to maintain a manual of policies and procedures of the Board of Nursing. The Legislative Auditor found that the policies and procedures manual that board members presently possess is outdated and its use as a reference is limited. Your Committee concurs in the need for an updated policies and procedures manual and has received the assurances of the Board of Nursing that its manual is presently being updated;

(3) Adding a new section four which would prohibit the Board of Nursing from requiring faculty members of nursing education programs to receive the board's approval prior to teaching. Your Committee heard testimony from the University of Hawaii School of Nursing that present requirements to submit transcripts and course descriptions are a hindrance to the hiring of prospective faculty, particularly those who are out-of-state. In addition, the Board's review and approval of faculty infringes on the review of the Board of Regents, which has the authority to appoint deans, directors, and other members of the faculty and employees required to carry out the purposes of the University;

(4) Making technical changes which have no substantive effect and renumbering the sections of the bill to conform with the amendments discussed above.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1818-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1818-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Uwaine and Soares.

SCRep. 583-84 Consumer Protection and Commerce on H.B. No. 1819-84

The purpose of this bill was to extend the date of repeal of Chapter 453, Hawaii Revised Statutes, relating to the Board of Medical Examiners, to December 31, 1990.

Currently, Chapter 453, Hawaii Revised Statutes, is scheduled to be repealed on December 31, 1984. Your Committee finds that the need and importance of regulating the practice of medicine justifies the extension proposed by this bill.

After due consideration, your Committee has amended the bill to clarify and improve the laws relating to the practice of medicine by:

1. Adding two new sections to part I of chapter 453, Hawaii Revised Statutes, regarding physician assistants.

Specifically, the new sections require that each person who provides services within the practice of medicine under the supervision of a physician must be certified and provide standards for certification and supervision of physician assistants.

2. Reducing the three year residency requirement for foreign medical graduates to two years.

3. Requiring the Board of Medical Examiners (Board) to establish clear guidelines for shortage areas where physicians with a temporary license may practice.

4. Providing that the Medical Advisory Committee may also advise the Department of Commerce and Consumer Affairs (DCCA).

5. Requiring the employment of an employee of the DCCA to administer the medical claims conciliation panel. Presently, the Executive Secretary of the Board administers the conciliation panel in addition to his other duties.

6. Requiring consumer complaints, peer review committee adverse decisions, insurance reports on medical tort cases, convictions of physicians for violation of controlled substance law and possible violations of medicine and surgery law to be transmitted to the DCCA instead of the Board and making the DCCA responsible for investigating such complaints and information.

7. Allowing temporary certification of emergency ambulance personnel and requiring the Board to establish an emergency medical services committee and to define the scope of practice of emergency medical services and degrees of supervision required.

8. Establishing a uniform method of certifying persons as qualified in emergency medical services by requiring the Board to use certification standards of the National Registry of Emergency Medical Technicians.

9. Clarifying the Board's responsibilities by requiring it to assume direct responsibility for reviewing medical training credentials and administering examinations.

10. Making an appropriation for carrying out certain activities of the Board mandated by this bill.

Section 1 of H.B. No. 1819-84, as received by your Committee, has been renumbered as section 3 of the bill, as amended.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1819-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1819-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Uwayne and Soares.

SCRep. 584-84

Consumer Protection and Commerce on H.B. No. 1880-84

The purpose of this bill was to require that notice of a foreclosure action be given to the association of apartment owners at the time foreclosure proceedings are initiated.

Your Committee received testimony in favor of the bill from the Mortgage Bankers Association of Hawaii. As a matter of practice, associations of apartment owners are joined as parties in foreclosure proceedings. In most cases, the association has a lien for unpaid maintenance fees, and it will be served with process and thereby put on notice of the foreclosure action. This bill would insure that there is notification when an association is not joined as a party in a foreclosure proceeding.

The Hawaii League of Savings Institutions expressed concern that the bill could be interpreted to delay proceedings against borrowers, guarantors and other parties. Your Committee has amended the bill to clarify that this bill does not delay in any way civil proceedings against parties other than the association.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1880-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1880-84, 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, Kuroda and Soares.

SCRep. 585-84 Consumer Protection and Commerce on H.B. No. 1895-84

The purpose of this bill is to include practitioners under state drug prescription, dispensing, and labeling statutes. The bill also clarifies and reorganizes those statutes for the sake of clarity and readability.

Practitioners, who are nationally responsible for dispensing 12 per cent of all prescriptions issued, are currently exempt from existing state regulation of drug prescription, dispensing, and labeling which regulate pharmacists. This bill corrects this inequity and ensures the proper issuance and effective utilization of prescription drugs.

The Hawaii Medical Association testified in support of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1895-84, 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 Carpenter.

SCRep. 586-84 Consumer Protection and Commerce on H.B. No. 1784-84

The purpose of this bill was to require motor vehicle repair dealers to be registered before advertising.

It has come to the attention of the Motor Vehicle Repair Industry Board that unlicensed repair dealers have been advertising regarding their proposed and available services. This bill will curtail advertisement by unlicensed repair dealers by making it unlawful to advertise without being licensed. Your Committee finds that advertising should only be conducted by those repair shops which are registered to do business with the Department of Commerce and Consumer Affairs as motor vehicle repair dealers.

Your Committee, after due consideration, concludes that the bill should be amended to provide for the inclusion of rebuilt motor vehicle repairers within the purview of chapter 437B, Hawaii Revised Statutes, relating to the regulation of motor vehicle repairs. Your Committee finds that there is a need to protect consumers who seek the services of rebuilt motor vehicle repairers by regulating that aspect of the motor vehicle industry. In light of the potential danger and harm which may result from the provision of the services by unqualified rebuilt motor vehicle repairers, the State has a vested interest in regulating the rebuilt motor vehicle repair industry.

Specifically, your Committee has amended various applicable provisions of Chapter 437B, Hawaii Revised Statutes, to include rebuilt motor vehicle repairers, and include new definitions relevant to this field of work. The overall effect of the amendments is to provide for the appropriate and necessary regulation of rebuilt motor vehicle repairers. Your Committee has also made nonsubstantive changes for purposes of clarity and conformity with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1784-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1784-84, 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 and Uwaine.

SCRep. 587-84 Consumer Protection and Commerce on H.B. No. 1790-84

The purpose of this bill was to allow speedier formation of businesses within the State by simplifying the registration standards used in determining the acceptability of business names and marks.

Testimony by the Department of Commerce and Consumer Affairs indicated that the Business Registration Division spends approximately 30 per cent of its efforts trying to clear business names. There are about 120 names submitted daily, and these must be reviewed against 80,000 business names on file with the Division. The Department of Commerce and Consumer Affairs also formed an ad hoc committee that recommended a change from the "confusingly similar" standard to a "substantially identical" standard in determining registration. The "confusingly similar" standard is difficult to apply and does not appear to be working expeditiously. Under a "substantially identical" standard, only those names that are almost identical will not be registered.

The bill also reflects that the term of initial registration for a print, label, trademark, service mark or trade name has been changed from ten years to one year. Subsequently, such registration may be renewed for additional periods of ten years from the date of renewal.

Your Committee has amended the bill:

(1) In Section 1, on page 2, by deleting all of lines 5 and 6. The deleted clause is already provided for in Section 416-6.

(2) In Section 2, on page 3, by adding a new paragraph after the last word in line 2 to read as follows:

"The director may make, amend and repeal such rules as may be necessary to carry out the purposes of this section."

(3) In Section 8, on page 9, line 17, by substituting the words "substantially identical" for the words "confusingly similar" for the purpose of consistency with the substantially similar standard applied throughout the amendments to the law made by this bill.

(4) 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. 1790-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1790-84, 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 and Uwaine.

SCRep. 588-84 Consumer Protection and Commerce on H.B. No. 1821-84

The purpose of this bill was to extend legislation relating to chiropractic and the Board of Chiropractic Examiners for another two years until December 31, 1986.

Presently, under Section 26H-4, Hawaii Revised Statutes, Chapter 442, relating to Chiropractic, is scheduled to be repealed on December 31, 1984. This bill amends Section 26H-4, Hawaii Revised Statutes, to extend the repeal date to December 31, 1986. A Legislator Auditor's Report on Chiropractic (Legislative Auditor, Sunset Evaluation Report, Chiropractic, Report 84-3, January 1984), found that there is need to further regulate this profession and that the Board of Chiropractic Examiners (Board) must take steps to correct irregularities in the profession.

Your Committee finds however, that two years is not a sufficient period of time for the Board to deal with and resolve problems in the profession. Your Committee has therefore amended the bill to extend legislation relating to chiropractic and the Board for four years to December 31, 1988.

An issue of primary importance for the Board to deal with is that of the accreditation of chiropractic institutions from which a candidate for licensure must have graduated. On this point, the chiropractic profession in Hawaii and elsewhere is divided into two philosophic groups. The "straight" group restricts its practice to treating the problem of "subluxation", a condition that occurs when a vertebra is misaligned to its adjacent segment in such a way to disturb nerve functions.

The "mixer" group endorses a philosophy which holds that wider aspects of the human physical condition must be considered in an evaluation of physical problems and their chiropractic treatment. The philosophy of the "mixer" group concurs with the Council on Chiropractic Education (CCE), which requires the institutions it accredits to maintain a broader curriculum than is typical of institutions which favor the "straight" philosophy.

In order to fairly accommodate both philosophies of chiropractic, in September, 1983 the Board initiated a rule in which they would accept for licensure graduates of institutions accredited by agencies recognized by the U.S. Office of Education. The rule also provided that students enrolled in any chiropractic college prior to the adoption of the rule would be exempt.

Your Committee finds that, in order to equitably address accreditation problems without compromising the public interest of providing trained chiropractic professionals, the Board's rule to accept graduates of institutions accredited by agencies recognized by the U.S. Office of Education should be incorporated into law. Accordingly, your Committee has amended the bill by amending Section 442-2, Hawaii Revised Statutes, to reflect this accreditation requirement and to also exempt from this requirement students who are enrolled in chiropractic colleges prior to the approval of this bill. Specifically, your Committee has amended Section 442-2, Hawaii Revised Statutes, by adding a new paragraph (4) relating to accreditation and deleting references to accreditation by the CCE and the Straight Chiropractic Academic Standards Association. Your Committee has further amended Section 442-2, Hawaii Revised Statutes, by deleting specific education requirements.

Your Committee amended Section 442-3, Hawaii Revised Statutes, relating to the Board of Examiners, by deleting the requirement that three Board members be graduates of and hold a diploma from a regularly incorporated chiropractic school or college and inserting language requiring that such members be licensees under Chapter 442, Hawaii Revised Statutes. Your Committee also amended Section 442-3 by deleting redundant language requiring at least three board members to be licensees and by making technical changes that have no substantive effect.

Your Committee finds that this bill, as amended, addresses the concern discussed above in an equitable and fair manner.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1821-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1821-84, 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, Chang, Fernandes Salling and Uwaine.

SCRep. 589-84 Consumer Protection and Commerce on H.B. No. 2224-84

The purpose of this bill was to allow motorcyclists to purchase no-fault insurance with increased deductibles for personal injury incurred by the insured.

Under present law, motorcyclists may purchase no-fault insurance with personal injury deductibles of \$100, \$300, \$500 and \$1,000 per accident. This bill would increase the maximum deductible to \$5,000.

Your Committee after due consideration has decided to make substantive amendments to the bill as follows:

- (1) Deletion of the proposed \$5,000 deductible and insertion of deductible increments of \$1,500 and \$2,500.

- (2) Insertion of a new subsection (o) to section 294-13, Hawaii Revised Statutes, which provides that an insurer may offer a premium reduction of up to five per cent when an operator renews a no-fault policy covering a motorcycle, motor scooter, or vehicle with less than four wheels, and that the insurer may also provide a reduction of not more than ten per cent to an operator who purchases a no-fault policy covering more than one of the above mentioned vehicles.
- (3) Changing the effective date of the bill from upon approval to July 1, 1984.

Your Committee finds, based on the discussion and data presented regarding motorcycle safety, that the increased deductibles and premium reductions provided for in this bill as amended, can provide some relief for motorcycle operators in the form of reduced premiums. In addition, your Committee intends to introduce at least one resolution seeking an interim study to develop relevant information pertaining to this measure and similar legislation currently under consideration.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2224-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2224-84, 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 and Uwaine.

SCRep. 590-84 Consumer Protection and Commerce on H.B. No. 1882-84

The purpose of this bill is to protect buyers under agreements of sale from liens or encumbrances of sellers under such agreements of sale.

Under an agreement of sale, a buyer does not acquire legal title to the subject real estate until after the agreement of sale is satisfied in full. Between the time that the agreement of sale is recorded at the bureau of conveyances and/or filed in the land court, and until the time that the buyer subsequently acquires title, there may be mortgages, judgments, and other liens against the seller's interest in the agreement of sale which affect the real estate involved. There is currently a question whether voluntary and involuntary liens against the seller's interest in an agreement of sale will adversely affect the title to the real estate that the buyer subsequently receives. While many attorneys, lenders, escrow companies, and title companies take the position that the buyer's title is not adversely affected, there is a minority view that takes the opposite position. There are no reported Hawaii cases or statutes establishing the rule to be followed.

At the hearing on this bill, attorney Jeff Grad, and representatives of the Mortgage Bankers Association of Hawaii, the Hawaii League of Savings Institutions, and the Hawaii Association of Realtors, all testified in support of the bill. The representative of the Hawaii Consumer Finance Association also testified in support of the intent of the bill, but suggested certain amendments.

Your Committee has amended the bill and believes that this bill, as amended, will make it clear that when the agreement of sale buyer satisfies the agreement of sale in full by making payments as required and by complying with other provisions of this bill and the agreement of sale, any conveyances (including mortgages) by or judgments against the seller arising after the agreement of sale is recorded or filed, will not affect the title or rights of the buyer to the real estate covered in that agreement of sale. This bill, as amended, adds new sections in this regard to chapter 501, dealing with land court registration, and chapter 502, dealing with the bureau of conveyances recordation.

Your Committee has amended this bill as follows:

1. A definition of "satisfaction of agreement of sale" was added.

Your Committee believes that certain protections for mortgagees, judgment creditors, and other claimants are necessary.

Your Committee also wants to ensure that the buyer will make all payments

and pay all proceeds under the agreement of sale to the proper claimants, where applicable, in their order of priority.

It is the intent of your Committee that if the real estate covered in the agreement of sale is the subject of liens which exceed the amount that the buyer owes under the agreement of sale, those liens, whether conveyances or judgments, must be released from the real estate when the buyer satisfies the agreement of sale, as provided in this bill. Once the agreement of sale is satisfied in this regard, those liens must be released from the real estate even though the claimants are still owed moneys by the seller under the agreement of sale. Those claimants thereafter will still have their rights to collect moneys owed from the seller and, as provided in this bill, from the proceeds of the agreement of sale, but the title of the real estate will not be affected. The agreement of sale buyer thus will be able to obtain title to the property free and clear of any such conveyances by the seller or judgments against the seller.

2. A new subsection (c) was added which provides that this bill does not impair or waive any valid legal defense to releases by claimants. Your Committee intends to ensure that frivolous defenses by claimants will not be used to prevent releases of liens, and at the same time, that valid legal defenses will not be abrogated. In keeping with this amendment, the automatic extinguishment of claims provisions were deleted from the bill.

3. The word "release" was defined to take into account the situation where the claimant succeeds to the seller's title to the real estate and to the seller's obligation to transfer title to the buyer upon satisfaction of the agreement of sale.

4. Other nonsubstantive, technical changes were made to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1882-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1882-84, 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, Fernandes Salling, Uwaine and Soares.

SCRep. 591-84 Consumer Protection and Commerce on H.B. No. 2196-84

The purpose of this bill was to update statutory provisions relating to the licensure, regulation and supervision of financial institutions.

Specifically, this bill:

- (1) Clarifies, in section 1, uncertainties that currently exist in Section 401-14, Hawaii Revised Statutes, as to who may demand access to confidential information relating to financial institutions that are supervised and examined by the Bank Examiner.

The amendment to Section 401-14 specifies information that constitutes property of the Bank Examiner and which should not be disclosed, except to certain specified parties such as Federal or State banking authorities and to the institution under examination. The amendment would conform the State law to Section 309.5 of the Federal Deposit Insurance Corporation Rules and Regulations and Section 505.5 of the Federal Home Loan Bank Board Rules and Regulations for purposes of uniformity in joint supervision and examination of financial institutions.

- (2) Adds a new section, in section 2, to Chapter 402, Hawaii Revised Statutes, to make the wilful or knowing circulation of false statements about a financial institution a Class C felony. The amendment was prompted by concern about last year's run on Honolulu Federal Savings and Loan Association.
- (3) Amends Section 408-2.1, Hawaii Revised Statutes, in section 3, to enable companies other than industrial loan companies to use the words "finance" or "financial" in their names or titles. Your Committee heard

testimony by the Bank Examiner that the current law precludes many legitimate businesses from entering the State, without yielding an equivalent gain in terms of safety and soundness to the consumer.

- (4) Amends Section 408-8, Hawaii Revised Statutes, in section 4, to clarify and streamline the administrative licensure process by:
 - (a) Requiring an industrial loan company to commence business within sixty days after receiving a notice of approval of application for license, with the possibility of an extension of time by the Bank Examiner; and
 - (b) Requiring an administrative hearing only in cases where the Bank Examiner is inclined to deny an application for an industrial loan license.
- (5) Amends Section 408-11.1, Hawaii Revised Statutes, in section 5, to clarify ambiguities surrounding the transfer of a license, particularly the common misconception that an industrial loan license can be "bought" at a premium. The amendment clarifies administrative procedures for transferring a license or voting stock. Additionally, the amendment specifies that:
 - (a) A transfer or assignment of an industrial loan license must be incidental to a sale of all or substantially all of a licensee's ongoing operations and the sale must have pen written approval of the Bank Examiner;
 - (b) A transfer of voting stock requires the prior approval of the Bank Examiner; and
 - (c) A potential license transferee must meet the same statutory criteria set forth in Section 408-8, Hawaii Revised Statutes, that are imposed on a de novo applicant for licensure.
- (6) Amends Section 408-14, Hawaii Revised Statutes, in section 6, by: (a) specifying that an industrial loan company cannot issue investment certificates, unless the Bank Examiner determines that the company is in good standing under State law; (b) deleting obsolete requirements referring to the period prior to January 1, 1978; and (c) specifying and distinguishing administrative procedures applicable to a company's violation of ratio requirements, as opposed to violation of reserve requirements.
- (7) Deletes obsolete provisions in Section 408-14.5, Hawaii Revised Statutes, in section 7.
- (8) Amends Section 408-21, Hawaii Revised Statutes, in section 8, to require that all books, accounts, and records relevant to an industrial loan company's transactions in Hawaii be kept and maintained at its principal office in Hawaii. Given recent major technological changes that have occurred in the area of record maintenance, the Bank Examiner is authorized to promulgate rules to provide for alternate locations, methods, and procedures for maintaining books, accounts, and records.

The amendment to Section 408-21, Hawaii Revised Statutes, also imposes a penalty for knowingly (as opposed to the current "wilfully and knowingly") delaying or withholding reports required to be submitted to the Bank Examiner. The current penalty of \$10 per day is increased to \$100 per day.
- (9) Amends Section 408-21.5, Hawaii Revised Statutes, in section 9, and clarifies the type of information that must be submitted by an industrial loan company issuing investment certificates or debentures. The amendment requires a company to submit its financial statements prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant.
- (10) Amends Section 408-22, Hawaii Revised Statutes, in section 10, to conform with Section 401-3, Hawaii Revised Statutes, the amendment requires the Bank Examiner to conduct an examination of industrial loan

companies at least once every 18 months, rather than at least once every year.

- (11) Amends Section 408-23, Hawaii Revised Statutes, in section 11. It specifies that examination reports are the confidential property of the Bank Examiner, and clarifies the applicable procedures in a situation where Bank Examiner's records are subpoenaed. The amendment is modeled after Part 309 of the Federal Deposit Insurance Corporation Rules and Regulations and Section 505.6 of the Federal Home Loan Bank Board Rules and Regulations.
- (12) Amends Section 408-25, Hawaii Revised Statutes, in section 12, to provide for revocation of an industrial loan license when a company is inactive for a period of six months or more. The amendment is designed to address current inactive licensees.
- (13) Amends Section 408-27, Hawaii Revised Statutes, in Section 13, to conform with the amendments to Section 401-14 discussed in item (1) above.
- (14) Repeals Section 407-111, Hawaii Revised Statutes, as the new section added to Chapter 402, discussed in item (2) above makes Section 407-111 unnecessary.

Your Committee heard favorable testimony from the Bank Examiner Division of the Department of Commerce and Consumer Affairs and the Hawaii Bankers Association.

Your Committee has amended section 2 of the bill to provide for two levels of criminal liability for circulating untrue statements. The bill, as amended, states that a person is guilty of a misdemeanor for intentionally or knowingly circulating untrue statements and guilty of a Class C felony if the circulation is done maliciously or for personal financial gain.

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. 2196-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2196-84, 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 and Uwaine.

SCRep. 592-84 Consumer Protection and Commerce on H.B. No. 1912-84

The purpose of this bill is to amend Title 26, Hawaii Revised Statutes, by adding a new chapter which regulates the health club industry.

Recently, the closing of various health club facilities has imposed financial hardships upon consumers and health clubs within the State. Existing statutory provisions are inadequate to address the problem or correct and prevent abuse or violations of a health club contract.

Your Committee finds that this bill will protect health clubs and consumers by requiring disclosures of equipment and services available, restricting terms of membership, requiring escrow or surety bonds in cases where health clubs collect money prior to becoming fully operative, and establishing a right of cancellation of health club contracts by consumers.

Your Committee received testimony from the Director of the Office of Consumer Protection, the Executive Vice President of the Hawaii Business League, and various representatives of health clubs. Based on the testimony received and after due consideration, your Committee has amended the bill by:

1. Amending the definition of "health clubs" by deleting the word "solely" and providing that a health club is an organization whose "principal purpose" is for the maintenance or development of physical fitness or well being through physical exercise.

2. Amending the definition of "social and recreational facilities" by deleting the reference to individual and team sports.
3. Deleting the exemption for clubs whose social and recreational facilities are at least seventy-five per cent of the total facilities available to members.
4. Deleting the exemption for health clubs which have remained continuously in business within the State for a period exceeding twenty years and have complied with all applicable state laws.
5. Providing an exemption for clubs whose function as a health club is only incidental to its overall function and whose covered floor space devoted to the maintenance or development of physical fitness through physical exercise comprises less than thirty per cent of the total covered floor space of the club.
6. Providing an exemption for health clubs which began offering health club contracts or any other contracts in the State prior to December 31, 1969.
7. Clarifying language of the bill which provides that health club contracts shall contain a list of the names and addresses of other clubs at which the contracts are transferable for use.
8. Deleting the requirement that health club contracts set forth the name and address of the applicable escrow depository or surety company.
9. Changing the time period within which a buyer may cancel a health club contract from three business days after the date the buyer signs the contract to five business days.
10. Deleting the requirement that if a buyer gives notice by mail of cancellation of the health club contract then such mailing must be by registered or certified mail.
11. Changing the time period within which a health club shall provide cancellation refunds to buyers from fifteen days after receipt of notice of cancellation to thirty days.
12. Amending the amount which must be paid by a buyer in order to renew a health club contract. The bill, as received, provides for a payment of fifteen per cent of the original contract price. The bill has been amended to require only ten per cent.
13. Deleting the requirements that (a) escrow accounts be in effect at the time the health club commences the sale of health club contracts; and (b) funds from the escrow account not be released from the account unless the buyer has exercised a right of cancellation or until thirty days after the date notice is sent to the buyer that the club is fully operative.
14. Providing a requirement that escrow accounts be closed and released by the escrow agent to the health club only upon the health club becoming fully operative.
15. Extending the time within which an escrow company shall furnish buyers with a statement of the escrow account. The bill, as received, provides for a statement to be issued within three business days of a request for the statement. The bill, as amended, provides for the issuance of a statement within fifteen business days for in-state requests and thirty days for out-of-state requests.
16. Specifying that the type of bond which a health club shall obtain in lieu of setting up an escrow account to be a fidelity bond.
17. Substituting \$50,000 for \$25,000 as the alternative maximum sum of the required bond.
18. Amending the purpose of the required bond to be for the benefit of any buyer who is damaged by a health club's violation of law or its failure to comply with its contractual obligations to the buyer. As received, the bill provided that the purpose of the bond is for the benefit of any buyer in the event the health club fails to be fully operative within twelve months following advancement of moneys by the buyer.

19. Providing that the required bond shall be maintained until two years from the date that the health club is fully operative. Presently, the bill provides that the bond must be maintained until thirty days after every buyer is sent notice by mail that the health club is fully operative.

20. Including nonsubstantive changes for the purpose of clarity and conformity with recommended drafting style.

Your Committee finds that the foregoing amendments to the bill are both necessary and reasonable and will provide the desired protection and remedies for consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1912-84, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1912-84, 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, Kuroda and Soares.

SCRep. 593-84 Consumer Protection and Commerce on H.B. No. 2012-84

The purpose of this bill was to require licensed contractors who advertise to include their assigned license number in their advertisements.

Your Committee amended the bill to specify that advertising of contractors includes commercials on a broadcast medium as well as advertisements in print. Also, new subsections were added to require that the contractor must include in the advertisement its applicable and current license number, and provide proof of such number's validity to the publisher or producer of the advertising medium. A publisher or producer may refuse to publish or announce an advertisement for failure to comply with these requirements. Accordingly, that publisher or producer shall not be subject to any suit, action, claim or liability arising from that refusal.

Your Committee further amended the bill by deleting proposed language on page 1, lines 7 to 9 which would require persons advertising as contractors be duly licensed by the State and include their license number as part of the advertisement. Your Committee's amendments included these requirements and make this language unnecessary.

Your Committee has further amended the bill for 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. 2012-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2012-84, 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, Kuroda and Soares.

SCRep. 594-84 Consumer Protection and Commerce on H.B. No. 2026-84

The purpose of this bill is to clarify the present laws relating to auxiliary personnel employed by dentists and temporary licenses issued to dentists.

Present law provides that dental assistants shall perform their duties under the "general supervision" of a dentist. This bill adds "direct supervision" as an alternative degree of supervision of dental assistants. The bill also defines the terms "direct supervision" and "general supervision."

With regard to temporary licenses, the bill clarifies the conditions under which such licenses are issued and the time period for which they remain in force and establishes one year as the maximum period for which a temporary license is valid.

Your Committee heard favorable testimony from the Board of Dental Examiners and the Hawaii Dental Association supporting the intent of the bill.

Upon consideration of this measure, your Committee has amended the bill to provide for four levels of supervision of dental assistants, i.e., "general", "direct", "indirect", and "personal" supervision to bring the law into conformity with the levels of supervision recognized by the American Dental Association. The amendment also provides that dental assistants can perform treatments in a patient's mouth only under the direct supervision of a dentist. Further, the Board of Dental Examiners is made responsible for adopting rules delineating definitions and qualifications of dental assistants in addition to their duties.

A corresponding amendment was made to the proposed new section on definitions to add "indirect supervision" and "personal supervision" to the terms being defined.

Your Committee further amended the bill by making technical and stylistic changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee concludes that this bill, as amended, will promote greater efficiency in the practice of dentistry while providing safeguards to protect the public.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2026-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2026-84, 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, Kuroda and Soares.

SCRep. 595-84 Consumer Protection and Commerce on H.B. No. 2181-84

The purpose of this bill is to revise the Landlord and Tenant Act to provide for the establishment of a rent trust fund for the deposit of rent in dispute.

Specifically, this bill establishes a rent trust fund for the deposit of rent in dispute. The court shall order the tenant to deposit any disputed rent as it becomes due and in the case where a rent increase is in issue, the amount of rent prior to the increase. The tenant shall not be required to deposit any rent if the tenant can show to the court's satisfaction that rent has already been paid or that the parties had executed a written instrument agreeing that rent could be withheld or deducted. The court has power to hold in trust any rent deposited and to distribute the funds accordingly. Noncompliance by the tenant shall result in the landlord having judgment for possession. Your Committee interprets "tenant" broadly to include public assistance recipients. Upon finding that either the landlord or the tenant raised the dispute in bad faith, the court may order that person to pay the other party reasonable interest on the rent deposited in the trust.

Currently, similar provisions are provided in section 521-78, Residential Landlord-Tenant Code, Hawaii Revised Statutes, which was enacted in 1978. The rent trust fund provision in this bill will apply to non-residential leases where the payment or nonpayment of rent is in dispute.

The Hawaii Association of Realtors, Michael Gibson, an attorney, the Institute of Real Estate Management, and Building Owners and Managers Association Hawaii testified in favor of this bill.

Your Committee believes that the establishment of a provision for the rent trust fund in cases of non-residential rent disputes is warranted and will expedite the resolution of these disputes.

Your Committee has amended the provision relating to the issuance of a writ of possession to include removal of all possessions as well as persons when putting the landlord into possession.

Your Committee has further amended the bill 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. 2181-84, as amended herein, and recommends

that it pass Second Reading in the form attached hereto as H.B. No. 2181-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Kuroda and Soares.

SCRep. 596-84 Consumer Protection and Commerce on H.B. No. 2281-84

The purpose of this bill is to further regulate the activities of condominium managing agents.

This bill: 1) requires managing agents to register with the Real Estate Commission; 2) allows the Commission to reject managing agent applications failing to meet statutory requirements; 3) requires managing agents to deposit condominium project funds in an insured financial institution located in this state; 4) prohibits tampering of condominium records of managing agents; 5) requires managing agents to have a designated agent in the State authorized to act on the managing agent's behalf; 6) designates managing agents as fiduciaries with respect to funds dispersed and collected on behalf of condominium owners; 7) provides penalties for managing agents violating applicable laws; 8) adds a new definition of "Managing agent"; 9) authorizes the Real Estate Commission to investigate and enjoin managing agents when necessary; and 10) increases the bonding requirements for managing agents.

Your Committee has amended the bill by:

- 1) Allowing managing agents to dispose of condominium records under certain conditions;
- 2) Assessing a registration fee on managing agents to be placed in the Compliance Resolution Fund;
- 3) Including "fiscal management" as a duty in redefining the term "Operation of the property";
- 4) Requiring the Association of Apartment Owners, in those projects having no managing agent, to provide to the Real Estate Commission, at its request, evidence of the required bonding for persons handling the project's funds; and
- 5) Making technical amendments which have no substantive effect.

Your Committee on Consumer Protection is in accord with the intent and purpose of H.B. No. 2281-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2281-84, 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, Kuroda and Soares.

SCRep. 597-84 Consumer Protection and Commerce on H.B. No. 2477-84

The purpose of this bill is to resolve situations of mathematical impossibilities in the current law which requires the terms of at least one-third of the directors of a condominium association's board to expire each year.

Presently, the existing law has created mathematical impossibilities when the number of directors is not a multiple of three. This bill provides that when the number of persons constituting the board of directors is not a multiple of three, the term of that number of directors nearest to representing one-third of the directors shall expire annually.

Your Committee has amended the bill to delete the word "most" in line 10, page 1 of the bill as received 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. 2477-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2477-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 598-84 Consumer Protection and Commerce on H.B. No. 2484-84

The purpose of this bill was to clarify by restatement and amendment, certain portions of Chapter 421C, Hawaii Revised Statutes, relating to Consumer Cooperative Associations.

The bill provides for the following:

- 1) Defines the articles of nonstock consumer cooperative associations for purposes of Chapter 421C, Hawaii Revised Statutes;
- 2) Provides for the collection of fees from both stock and nonstock consumer cooperative associations;
- 3) Requires the articles of a consumer cooperative association rather than the bylaws to contain the term cooperative or some abbreviation thereof;
- 4) Permits an annual review instead of requiring an audit for consumer cooperatives; and
- 5) Removes the provision of Section 421C-22, Hawaii Revised Statutes, permitting a vote of the majority of the members of a consumer cooperative association, voting at a regular or special meeting, to order the directors to purchase the stock of a withdrawing member.

Your Committee received testimony from the Business Registration Division of the Department of Commerce and Consumer Affairs and from a representative of a local consumer cooperative association favoring passage of this bill with some amendments. Your Committee amended the bill on page 2, lines 2 and 3, by adding the phrase "and incorporated under this chapter" after the word "basis", to clarify the intent of the law. Also, on page 10, line 14, the reference to Section 421C-14(b) was changed to Section 421C-1, which is the appropriate section.

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. 2484-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2484-84, 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, Kuroda and Soares.

SCRep. 599-84 Judiciary on H.B. No. 538

The purpose of this bill is to make it an offense for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. This bill defines an imitation controlled substance as a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size, and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance.

Your Committee has heard testimony from the Department of the Attorney General, the Honolulu Police Department, and the Hawaii Medical Association in support of this bill.

The Department of the Attorney General has testified that imitation controlled substances are look-alike tablets and capsules which are manufactured to closely resemble or duplicate the appearance of common controlled substances, but which contain only over-the-counter ingredients. The primary target of this multi-million dollar industry are college, high school, and even junior high school students. People who use look-alike drugs do not experience the type of reaction that the real drug imparts, causing users to ingest a larger number of look-alike drugs in order to obtain a reaction which can result in an overdose when they use the real drug because they take the same amount as they would with look-alikes.

Your Committee believes that the distribution of look-alike drugs is a major nationwide drug abuse problem and that there is a need for effective laws for the control of look-alikes. This bill, which is patterned after the Model Act and supported by the Hawaii Medical Association will serve as an effective tool to combat the proliferation of such drugs.

Your Committee has amended this bill by:

- (1) Eliminating the separate offense of distribution to a minor;
- (2) Making any manufacture or distribution a class C felony;
- (3) Making the possession of substances which imitate controlled substances subject to section 712-1249, Hawaii Revised Statutes, a violation; and
- (4) Making technical nonsubstantive amendments, including alphabetization of the definition section.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 538, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 538, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 600-84 Judiciary on H.B. No. 787

The purpose of this bill is to require the attorney of a party in a court action or the party, if not represented by an attorney, to remove from the court exhibits or things left by those persons in the custody of the court. This bill also relieves the court of the requirement that notice be given when the court proposes to dispose of exhibits or things which are not removed by those persons, and the requirement that an affidavit be filed as to the notice and disposition of such items.

The judiciary has testified in support of the bill because the measure will facilitate the disposition of case exhibits by providing an automatic mechanism for removing materials that are no longer needed. This bill is in accordance with a recommendation by the National Center for State Courts.

Your Committee substituted "have" for "has" on page 2, line 6, of the bill as received to provide grammatical agreement with the subject "six months".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 787, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 787, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 601-84 Judiciary on H.B. No. 788

The purpose of this bill is to eliminate the requirement that the records of notaries public be deposited with the clerk of the circuit court of the judicial circuit in which the notary resides on July 1 of each year and to retain the requirement that such records be deposited upon resignation, death, expiration of term of offices, or removal from or abandonment of office.

Presently, section 456-16, Hawaii Revised Statutes, requires that a notary deposit with the chief clerk of the court all notary records made during the preceding year. This has resulted in an accumulation of notary records in the judiciary since the disposition of records may take up to ten years.

This measure is in accordance with a recommendation by the National Center for State Courts.

Your Committee has amended section 1 of the bill by extending the period of time for compliance to ninety days. The last sentence of this section was amended to clarify its reading.

Your Committee has added a new section to this bill as section 1 and has

renumbered the subsequent sections. This new section amends section 456-3, Hawaii Revised Statutes, which involves the disposition of notary seals after the notary leaves office. This section is parallel to section 456-16 and should be amended. Your Committee has extended the time frame for compliance to ninety days and has rewritten the last sentence as was done with the section on notary records.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 788, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 788, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 602-84 Judiciary on H.B. No. 1721-84

The purpose of this bill is to amend sections 574-5 and 574-6, Hawaii Revised Statutes, to 1) require that a notice for a change of name signed by the Lieutenant Governor be published once in a newspaper of general circulation; 2) mandate that an affidavit of publication of the notice be deposited at the Office of the Lieutenant Governor by the petitioner within sixty days of the signing of the notice, and that the failure to do so voids the petition for change of name; 3) authorize that the change of name be effective upon the publication of the notice and that the order of change of name be recorded in the Bureau of Conveyances and reported to the registrar of births within sixty days; and 4) require that the Lieutenant Governor promulgate rules in conformance with Chapter 91, necessary for the purposes of this chapter.

Under present law, the order of change of name is signed by the Lieutenant Governor and becomes effective upon signing.

Your Committee received testimony from the Office of the Lieutenant Governor which has had problems with petitioners who are issued orders for the change but then never publish the order as required by law. The petitioner then possesses an order which on its face is legally sufficient but is statutorily defective because it has not been published. Such petitioners should not be allowed to circumvent the publication requirement, which serves the important public interest of informing interested people of the petitioner's new identity.

Your Committee finds that the proposed changes to the present law will provide the public reasonable notice that a petition for a name change has been granted by the office of the Lieutenant Governor and that these proposed changes will meet the requirement for validity.

Your Committee also has made technical, non-substantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1721-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1721-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 603-84 Judiciary on H.B. No. 1852-84

The purpose of this bill is to amend the Uniform Desertion and Nonsupport Act by deleting gender-specific language and clarifying the terms in sections 575-2 to 575-4, Hawaii Revised Statutes.

Your Committee heard favorable testimony on the bill from the Hawaii State Commission on the Status of Women, the Committee on the Status of Women of the City and County of Honolulu, and the Family Court.

Your Committee finds that the elimination of gender-specific language in the Hawaii Revised Statutes conforms with the 1978 State Constitutional Convention's amendment to the Constitution, which encourages the replacement of words which apply to only men or women with words which apply to both genders. By substituting the word "person" for "husband", your Committee intends to equalize the obligation of both spouses to each other and to the children.

Your Committee made the following amendments to the bill:

1. It shortened from six to three months the time period a spouse or parent must be absent before a finding of desertion and wilful neglect can be made. Your Committee finds that six months of no support is too much of an economic hardship to suffer for the deserted spouse, child, or children, who may be totally dependent on the support as their only income. Waiting the long six month period before an action can be commenced may very well force a destitute spouse, child, or children onto the welfare rolls. The bill was amended accordingly to shorten the time period, with the agreement of all those who testified.
2. It also divided section 575-2 into subsections and paragraphs and made other technical, nonsubstantive amendments to the bill to conform to recommended drafting style and to clarify the language.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1852-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1852-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 604-84 Judiciary on H.B. No. 2006-84

The purpose of this bill is to increase from \$3 to \$5 the amount of the fine levied against violators of those statutes relating to their drivers or owners, or their vehicles as provided in section 286G-3 of the Hawaii Revised Statutes.

Under present law, a fine of \$3 is levied on each violation in addition to any fine imposed by the court. The amount is transmitted for deposit in the driver education and training fund.

Your Committee finds that the driver education and training program is one which should be supported and maintained. Its success is indicated by the low recidivism rate of drunk driving violators who underwent the program.

The program has grown substantially in the number of participants in the recent years, especially in the referrals of drunk driving violators. It is currently operating at a slight deficit.

Your Committee amended the bill to decrease the amount of the fine from \$5 as originally proposed to \$3.50. The fifty cent increase to the present fine will aid in resolving the budget deficit in conjunction with other measures presently being considered by the Legislature.

Your Committee also made technical, nonsubstantive amendments to the bill to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2006-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2006-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 605-84 Judiciary on H.B. No. 2077-84

The purpose of this bill is to amend the State's long-arm statutes by relieving the director of commerce and consumer affairs from responsibility for accepting service thereunder.

It is an established principle that a state may impose conditions upon a foreign corporation doing business within the state and prescribe a particular mode of service which would bring a nonresident person or association within the jurisdiction of the state's courts. These provisions are referred to as "long-arm statutes".

Hawaii has undertaken to exercise the right to extend the jurisdiction of the state courts and has designated the director of commerce and consumer affairs as the state official who receives notice for any action or proceeding where the

defendant cannot be found in the State.

Your Committee finds that after acknowledging receipt of these services, the director of commerce and consumer affairs takes no further action except to log and maintain a record of all services received. The receipt, storage, and maintenance of these services places an immense burden on the personnel and facilities of the department's business registration division.

Due process requires that the nonresident person or association have notice of the manner by which a state achieves jurisdiction. It is sufficient notice if the manner of service is provided for by statute. In order to perfect service or process, however, it is necessary that personal service also be made upon the person or association or that constructive service by registered or certified mail or by publication is completed.

Your Committee finds that the requirements of personal or constructive service sufficiently protects the due process rights of the nonresident person or association without the need for service upon the director of commerce and consumer affairs.

Your Committee has made minor, nonsubstantive amendments to the bill to clarify and harmonize its provisions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2077-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2077-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 606-84 (Majority) Judiciary on H.B. No. 2333-84

The purpose of this bill is to allow state and federal armed forces personnel and mail carriers to carry firearms only while performing their official duties or while going to and from their respective places of duty.

Under the present law, military personnel and mail carriers as well as police officers, sheriffs, and other law enforcement officials, are allowed to carry firearms of virtually any sort during their off-duty hours. They are exempted from the provisions in sections 134-6 to 134-9, Hawaii Revised Statutes, which relate to: (1) places to keep firearms; (2) ownership of firearms by a fugitive from justice, a convicted felon, or a person convicted of a drug offense; (3) prohibition of ownership of machine guns, automatic rifles, silencers, etc.; and (4) acquisition of a permit to carry a firearm.

Your Committee finds that there is no public necessity for members of the armed forces and mail carriers to carry firearms in their off-duty hours. Your Committee therefore amended the bill to delete the phrase on p. 1, lines 11-12, "or while going to and from their respective places of duty." In these circumstances, they should be subject to the same restrictions regarding the carrying of firearms as other individuals.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2333-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2333-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.
Senator Cobb did not concur.

SCRep. 607-84 (Majority) Judiciary on H.B. No. 2604-84

The purpose of this bill is to amend section 15-2, Hawaii Revised Statutes, to permit any person to vote by absentee ballot if the person is able to affirm any of seven listed reasons why the person cannot vote at the polls. The chief election officer can determine, by rule, other circumstances where a person can vote by absentee ballot.

Until 1981, an applicant for an absentee ballot had to specify one of several reasons as to why a request to cast an absentee ballot was being made. One of the reasons listed was a conflicting religious belief. Cognizant that requiring a

public declaration of religious belief in order to vote absentee presented possible violation of constitutional protections, the Legislature eliminated the requirement that a voter indicate a reason for requesting such an absentee ballot and instead simply authorized the chief election officer to adopt rules for absentee voting.

This bill requires that a voter desiring to vote absentee have a reason for so doing without requiring the voter to specify the particular reason. Unlike the previous statute, the absentee voter need only affirm generally to any of the listed reasons in the bill. The bill also prevents administrative problems caused by elections allowing the unrestricted use of the absentee ballot.

Your Committee amended the bill to delete the confinement in an institution for the care of the indigents as a reason for voting by absentee ballot. It finds that no such public institution currently exists.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2604-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2604-84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carpenter.
Senator George did not concur.

SCRep. 608-84 Judiciary on H.B. No. 1932-84

The purpose of this bill is to enable the Family Court to order outpatient treatment for mentally ill individuals who need treatment but are incapable of deciding to voluntarily seek or comply with such treatment.

Presently, such persons cannot be treated until they actually become so imminently dangerous to themselves or to others that they must be involuntarily committed to a psychiatric facility. Under this bill, timely intervention may be initiated to prevent or reduce serious mental deterioration and offer an alternative to institutionalization for such persons, thus permitting appropriate treatment to be provided in the least restrictive environment.

Your Committee heard supporting testimony from the Department of Health, the Family Court, the Mental Health Association in Hawaii, and a private attorney, and finds that involuntary outpatient treatment, as provided in this bill, is a viable means to provide necessary care to persons whose personal history of mental deterioration indicate that they may become imminently dangerous to themselves or to others although they do not immediately pose such a threat. It will also meet the needs and the concerns of their friends and families, for treatment in an earlier, more effective, and less confining manner than the present involuntary hospitalization laws provide.

Your Committee amended the bill to delete the provisions requiring a public defender to represent indigent subjects of an involuntary outpatient treatment petition. Your Committee finds that the Office of the Public Defender currently does not have the staff to extend representation to the subjects of the petition.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1932-84, 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. 1932-84, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 609-84 Judiciary on H.B. No. 2340-84

The purpose of this bill is to clarify existing law relating to the provision of identification upon lawful order of any police officer when a person is detained for a violation of the Statewide Traffic Code.

Section 291C-172, Hawaii Revised Statutes, presently states, in part, that a person "shall not wilfully refuse to provide his name, address and any proof thereof upon the lawful order or direction of any police officer." Under a strict interpretation of this statute, if a police officer did not specifically ask for a person's name, address and proof of identification, it is arguable that the person need not provide any information since the statutory requirements were

not technically complied with.

In a case recently affirmed by the Hawaii Supreme Court in a memorandum opinion (State v. Dang, Sup. Ct. No. 8964), a defendant was convicted of committing a violation of section 291C-172. The defendant appealed on several grounds, one of which was that the present statutory language of section 291C-172 should be construed so that the word "and" takes on a strictly conjunctive denotation.

Your Committee recognizes that such an argument runs contrary to the legislative intent behind section 291C-172 which is articulated as follows in House Standing Committee Report No. 307-78, House Bill 1877-78, Ninth State Legislature, Regular Session of 1978:

"Your Committee also heard testimony relating to difficulties encountered by policemen where traffic violators refuse to or are unable to provide adequate identification. Thus, your Committee further amended the bill to provide that any person arrested for a traffic violation shall not wilfully refuse to provide name, address or proof thereof to a police officer acting in the course of his duties under the chapter."

Thus, your Committee favors such a bill which revises the statutory language to clarify that a person is required to provide his or her name and address, "or" any proof thereof, "or both", as may be requested by a police officer.

Your Committee received testimony in support of the bill from the Honolulu Prosecuting Attorney's Office and the Honolulu Police Department. Your Committee finds that this bill will clarify existing law and aid police in conducting an effective enforcement program.

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. 2340-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2340-84, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Carpenter.

SCRep. 610-84 Judiciary on H.B. No. 2163-84

The purpose of this bill is to 1) create the offense of promoting intoxicating liquor to a minor, which shall be a misdemeanor; 2) add the definition of intoxicating liquor to Section 712-1240, Hawaii Revised Statutes, regarding offenses related to drugs and intoxicating compounds, and 3) amend Section 712-1252, Hawaii Revised Statutes, regarding prima facie evidence of knowledge of character, nature, or quantity of substance, or age of transferee to include intoxicating liquor.

Present Hawaii law prohibits the sale or furnishing of intoxicating liquor to minors under certain circumstances. The prohibition covers distribution to minors in both the social noncommercial and commercial settings: 1) Hawaii Revised Statutes section 281-4(c) prohibits the sale or furnishing of liquor to a minor in a commercial establishment by a licensed or unlicensed person who has knowledge that a person is a minor; 2) Hawaii Revised Statutes section 281-78(a)(2) provides that at no time can a licensee sell or furnish intoxicating liquor to a minor; and 3) Hawaii Revised Statutes section 281-101.5 prohibits adults from purchasing intoxicating liquor for consumption or use by a minor. Violating any of these statutory sections constitutes a petty misdemeanor. Existing law does not, however, prohibit adults, other than licensees under chapter 281, from giving liquor to minors.

This bill would make it illegal for a person to knowingly 1) provide intoxicating liquor, via any means, to a minor, or 2) allow a minor to possess intoxicating liquor on property under that person's control.

The bill would also allow a defendant charged with promoting intoxicating liquor to a minor to raise the following affirmative defenses:

- 1) the intoxicating liquor was an ingredient in medicine prescribed for treatment purposes; or

- 2) the intoxicating liquor was provided as part of a religious ceremony; or
- 3) the defendant provided the intoxicating liquor with the express consent of the minor's parent or legal guardian and with a reasonable belief under the circumstances that the minor a) would not drink the liquor, or b) would only drink the liquor in the presence of the parent or legal guardian, or c) had reached the age of majority.

Your Committee received testimony in support of this bill from Judge Leland Spencer of the Circuit Court of the First Circuit, the Honolulu Police Department, and the Liquor Dispensers of Hawaii, Retail Liquor Dealers Association.

Your Committee amended the bill to change the affirmative defenses to defenses, thereby lowering the defendant's burden of proof.

In a criminal prosecution, in order for a defendant to have the benefit of one of the affirmative defenses set forth in the bill, the defendant would have to prove by a preponderance of the evidence facts which negate his penal liability. Such a standard of proof is significantly higher than that which would be required of defenses which are not affirmative. In the latter case, the defendant need only raise a reasonable doubt as to his guilt and the prosecution must prove beyond a reasonable doubt the facts negating such defense(s), section 701-115, Hawaii Revised Statutes.

Your Committee believes that the factual situations set forth in each of the affirmative defenses should exempt the defendant from liability under this bill. Accordingly, the burden of proof required of the defendant should not be excessive; the deterrent effect of the statute is adequately met by requiring the defendant to offer facts which raise a reasonable doubt as to his guilt.

Your Committee also made nonsubstantive changes to clarify the language of the affirmative defense section and nonsubstantive changes to the bill to conform to recommended drafting style.

Your Committee strongly supports the thrust of this bill and believes that its passage will bring about a reduction of alcohol consumption by minors and a corresponding reduction in crime and in deaths and injuries brought about by intoxicating liquor.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2163-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2163-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 611-84 Consumer Protection and Commerce on H.B. No. 1785-84

The purpose of this bill was to allow firms to engage in the dispensing optician business, provided that the firm has in its employ a licensed dispensing optician who is in charge of and responsible for the direct management and control of the business.

From 1949 to 1981 the law required individuals and firms to be certified before engaging in the dispensing optician business. The law was amended in 1981 to delete the requirement that firms be certified, but retained the certification requirement for individuals. Presently, the law does not allow any firm from engaging in the dispensing optician business. However, testimony submitted indicates that firms have continued to engage in the dispensing optician business.

This bill requires firms engaged in the dispensing optician business and individuals to be certified under Chapter 458, Hawaii Revised Statutes.

Your Committee has amended the bill by prohibiting firms engaged in the dispensing optician business from operating without employing a certified dispensing optician at each place of business. This amendment further protects the consumer by insuring the presence of at least one qualified person at a firm's place of business.

Your Committee has also amended the bill by: 1) requiring the board of

dispensing opticians to issue a certificate to a firm within sixty days of an application approval, and 2) deleting the word "who" on page 1, line 5, and adding the term "individual or firm" in its place.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1785-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1785-84, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine and Henderson.

SCRep. 612-84 Consumer Protection and Commerce on H.B. No. 1925-84

The purpose of this bill is to provide members of chiropractic peer review committees with immunity from civil liability for their actions as a regulating entity.

Under present law, chiropractic peer review committee members may be subject to civil liability for their actions in reviewing, monitoring and disciplining members of their profession. Based on testimony received from the Board of Chiropractic Examiners and the Hawaii State Chiropractic Association, your Committee finds that many professional peer review committees have been ineffective as a method of regulating their respective professions because of the fact that committee members may be subject to lawsuits for their actions. Your Committee believes that by providing chiropractic peer review committee members with immunity from civil liability, the State can promote the effective and meaningful self-regulation of the chiropractic profession. The ultimate result of such effective monitoring is the protection of the public's health, safety and welfare and the assurance of quality chiropractic services.

The bill as received by your Committee also: (1) Provides for the mandatory reporting of adverse decisions by peer review committees to the Board of Chiropractic Examiners and (2) Grants immunity from civil and criminal liability to insurance companies and employers who, upon request, release information to peer review committees. Your Committee finds that these provisions of the bill also enhance the effectiveness of chiropractic peer review committees in their regulation and monitoring of the chiropractic profession.

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 H.B. No. 1925-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1925-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine and Henderson.

SCRep. 613-84 (Joint/Majority) Consumer Protection and Commerce and Judiciary on H.B. No. 2016-84

The purpose of this bill is to effectuate substantial changes in the existing law concerning medical malpractice insurance by: (1) requiring all health care providers to participate in the Patients' Compensation Fund; (2) requiring all health care providers to carry a minimum amount of malpractice insurance; (3) limiting the amount of damages and attorney's fees recoverable in medical malpractice claims; and (4) adopting a "risk management program" intended to reduce the incidence of malpractice. There also are certain administrative provisions which limit the liability of the Fund, thereby clarifying existing law.

In 1976, the Legislature established a Patients' Compensation Fund (the "Fund"). At the time, health care providers were required to carry minimum malpractice insurance (then \$100,000), or its equivalent. The Fund was the "exclusive agency" through which excess coverage could be obtained. The next Legislature eliminated the minimum insurance requirement and the Fund became no longer the "exclusive agency". Thus, under existing law, malpractice insurance has been a purely voluntary matter. Health care providers have been free to enroll in the Fund, or purchase other malpractice insurance, or

Your Committees note it to be their intention that the repeal of part III of chapter 671, Hawaii Revised Statutes, in no way affects remaining parts of that chapter.

Your Committees have amended this bill by deleting the provisions mandating participation in the Patients' Compensation Fund and implementing general tort reform measures and by substituting provisions repealing the Fund and deleting all other references to the Fund. Your Committees also have added a severability clause.

Your Committees are in accord with the intent and purpose of H.B. No. 2016-84, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2016-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senators Kuroda, Uwaine and George.

Senator Kawasaki did not concur.

SCRep. 614-83 (Majority) Consumer Protection and Commerce on H.B. No. 2029-84

The purpose of this bill was to specify the duration and conditions under which the Board of Dental Examiners may grant a temporary license to practice dental hygiene and to define the terms "direct supervision" and "general supervision".

Your Committee heard testimony from the Hawaii Dental Hygienists' Association, the Board of Dental Examiners, and the Hawaii Dental Association in favor of the temporary license proposal in this bill. The proposal would serve to eliminate current loopholes in the law and possibly curb abuses in obtaining temporary licenses.

Your Committee finds that under the existing law, a hygienist employed by the state or county, an eleemosynary dental clinic, private school, or welfare center may be under either a dentist's direct or general supervision while a hygienist employed by a dentist in private practice is required to be under a dentist's direct supervision. Your Committee finds that such a distinction in levels of supervision for publicly and privately employed hygienists is unfair, restrictive, and unwarranted.

Prior to 1970, dental hygienists were allowed to clean teeth, apply chemical agents to the coronal surfaces of teeth, and administer mouth washes. They were to perform their duties under the direct or general supervision of a dentist. In 1970, there was a general movement in the legislature to expand the allowable functions of dental hygienists and to require that all dental hygienists perform their duties under the direct and continuous supervision of a dentist. However, there was concern that the direct supervision requirement "would inadvertently prevent the continuation of the Department of Health's Dental Hygiene Program, which, because of its extensive nature, can only be conducted subject to general - not direct and continuous - supervision." (House Standing Committee Report No. 546-70 on House Bill 1224, Regular Session of 1970.) Subsequently, the legislature retained the provision allowing dental hygienists employed by legally incorporated eleemosynary dental clinics, private schools, welfare centers, or the state or county government to practice under the direct or general supervision of a dentist and added a requirement that dental hygienists in private practice must perform their duties only under a dentist's direct and continuous supervision. (The continuous supervision requirement for hygienists in private practice was deleted the following year.)

Your Committee notes that while the original intent of the distinction in supervisory requirements was to allow the Department of Health's dental hygienists to continue to perform routine duties such as providing topical fluoride applications to school children under general supervision, the distinction also allows other state hygienists to perform more complex tasks without the presence of a dentist such as servicing bedridden patients in state-owned hospitals. (Legislative Auditor, Sunset Evaluation Report, Dental Hygienists, Report No. 80-7, February, 1980.)

Conversely, dental hygienists in private practice are prevented from performing even the most routine duties except under direct supervision. The

not carry any insurance at all.

Your Committees find that the present malpractice insurance system under the Fund is wholly unsatisfactory. The Fund has been exposed to a substantial increase in the size and number of malpractice claims, judgments, and settlements. Moreover, in 1977, the Legislature made the Fund liable for the entire amount of damages (up to its statutory maximum) on any claim instituted more than six years after the occurrence of the medical tort, freeing the basic carriers of such responsibility.

In its early years the Fund had no loss experience upon which to base its membership assessments, and the "annual surcharge" was relatively low. Recently, however, the Fund's actuarial analysis prescribed a dramatic increase in the surcharge to 114 per cent of basic coverage. Meanwhile, private carriers of excess coverage have been able to offer competitive premium rates by being more selective and leaving higher risks to be handled by the Fund.

Understandably, health care providers have had little incentive to remain in the Fund. Presently only about one-fourth of the medical profession is enrolled, and as the Fund's financial prospects worsen, greater decline will probably occur.

The increased exposure and declining membership have decimated the Fund. Currently it has assets of less than \$1.5 million and pending (unliquidated) claims exceeding \$7 million. Estimates of unreported (i.e., unknown but anticipated) claims vary from \$14 million to \$30 million.

In its consideration of this bill, your Committees heard extensive testimony by members of the medical profession, the insurance community, and a representative of the Hawaii Hospital Association. Doctors were nearly unanimous in opposing the bill as drafted, principally because of its mandate that all doctors participate in the Patients' Compensation Fund as a condition of licensure. They also questioned the viability of the Fund in view of its present state. Members of the insurance industry in general favored the concept of the bill but recommended various amendments. The Hawaii Hospital Association supported the bill and also recommended certain amendments.

After duly considering the ramifications of the problem dealt with by House Bill No. 2016-84, H.D. 1, and the wide-ranging testimonies, your Committees concluded that the Patients' Compensation Fund has deteriorated to such an alarming degree that it has become necessary to repeal part III of chapter 671, Hawaii Revised Statutes, which established the Patients' Compensation Fund.

Your Committees recognize that in repealing the patients' compensation fund those health care providers who once were able to obtain insurance through the fund may need to join together to obtain insurance that otherwise could have been obtained through the fund. Your Committees, therefore, have amended the insurance law which proscribes group insurance, except in certain enumerated instances, to allow health care providers who could have obtained insurance from the fund to group together in related or unrelated groups to obtain group insurance. In this manner, health care providers who have lost the protection of the patients' compensation fund will be allowed to obtain insurance at a lower cost which your Committees hope is passed on the consumer.

Inasmuch as the unified testimony of the medical profession in opposition to the continuation of the Patients' Compensation Fund contributed materially to the decision to terminate the Fund, your Committees assert that any future efforts of the medical profession to seek reinstatement of the fund will be evaluated with this factor in mind.

In electing to terminate the Fund, your Committees find that the State shall incur no liability, cost, or obligation arising from acts occurring after the date of termination. Responsibility for any claims arising from subsequent acts of malpractice will be borne by the health care providers involved.

Your Committees endorsed the principle that any hospital or medical care center, public or private, at its own option may require that a medical practitioner carry medical malpractice insurance as a condition precedent to practicing in the hospital or medical care center.

Legislative Auditor found that many dental hygienists "believe that direct, on-site supervision limits their accessibility and prevents them from providing basic preventive services to such underserved populations as those residing in private institutions, care and nursing homes, urban poverty areas, or isolated rural districts." (Legislative Auditor, Sunset Evaluation Report, Dental Hygienists, Report No. 84-1, January, 1984.)

Your Committee is disturbed to find that dental hygienists who have met the same education, training, and examination requirements must practice under different levels of supervision due to their place of employment. Your Committee has accordingly amended the bill by: (1) deleting the requirement that dental hygienists in private practice must be under the direct supervision of a dentist; and (2) adding a requirement that the board of dental examiners shall establish rules specifying the degree of supervision required of the supervising dentist when a dental hygienist performs a procedure. Such rules shall apply uniformly to all dental hygienists regardless of place of employment.

Your Committee has further amended the bill to provide that dental hygiene may be practiced under indirect supervision, as well as under direct or general supervision. Indirect supervision means that the dentist is in the dental office, authorizes the procedure and remains in the dental office while the procedures are being performed by the hygienists. Your Committee heard testimony from the Hawaii Dental Hygienists' Association that over fifty per cent of Hawaii's hygienists currently perform traditional and routine dental hygiene services under indirect supervision.

Your Committee has further amended the bill by requiring the Board of Dental Examiners to adopt education and certification criteria by June 30, 1987 to permit properly trained, qualified, and directly supervised dental hygienists to take dental impressions for study casts and administer local anesthetics.

Taking dental impressions for study casts is a relatively routine and safe dental procedure in which a mold or cast is taken of the patient's teeth. Basically, the cast is used for oral diagnosis and as an aid in consulting with the patient by providing a visual means to show the extent, nature, and location of a problem. Presently, 45 states allow dental hygienists to take impressions for study casts.

Applying local anesthetics typically involves applying a drug by topical application or regional injection to eliminate sensation or pain in one part of the mouth. Presently, 12 states allow dental hygienists to apply local anesthetics.

Your Committee believes that permitting properly trained, qualified, and directly supervised hygienists to perform these expanded functions would free dentists to concentrate on more complex dental tasks and to treat additional patients. This increased productivity could benefit the consuming public by resulting in greater accessibility of dental services and possibly helping to contain dental costs. In addition, your Committee heard testimony from the Hawaii Dental Hygienists' Association that deep scaling, root planning, soft tissue curettage, and periodontal care, procedures which the dental hygienist typically performs, may require the administration of a local anesthetic agent to ensure patient comfort. Allowing the same person who performs the periodontal care treatment to administer a local anesthetic would result in a more efficient delivery system.

Your Committee is cognizant of concerns that dental hygienists may not currently be qualified to handle these expanded functions and wishes to emphasize that the Board is allowed approximately three years to develop education and certification criteria for dental hygienists. Your Committee believes that three years is a sufficient period of time for the Board to develop such criteria and for dental hygienists to receive proper training to undertake these expanded functions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2029-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2029-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Uwaine.
Senator Yamasaki did not concur.

SCRep. 615-84 Consumer Protection and Commerce on H.B. No. 2054-84

The purpose of this bill was to make it mandatory for pawnbrokers to provide pledgors with a written contract enumerating the material terms and conditions of the pawn agreement, and to provide receipts for payments received from pledgors.

The Office of Consumer Protection testified that it has received a few consumer complaints against pawnbrokers alleging the following acts or practices:

1. Pawnbrokers have charged interest on loans which exceeded the rates allowed by Section 445-133, Hawaii Revised Statutes.

2. Pawnbrokers sold pledged items before the time allowed for redemption of those items by pledgors, even though pledgors made timely payments on their loans.

These allegations may be difficult to prove in the absence of written documentation of the pledge agreement and the payments made by the pledgor. This bill will alleviate this difficulty by requiring pawnbrokers to provide such written documentation to consumers.

Your Committee concurs with the testimony heard from the Office of Consumer Protection in support of this bill.

In order to afford persons who would be directly affected by this bill adequate time to prepare for compliance, your Committee has amended the bill to change the effective date of the measure to January 1, 1985.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2054-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2054-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine and Henderson.

SCRep. 616-84 Consumer Protection and Commerce on H.B. No. 2418-84

The purpose of this bill is to amend certain provisions of Chapter 442, Hawaii Revised Statutes, relating to chiropractors' educational and licensing requirements.

The bill would: 1) require that any person appointed to the Board will have to have been in practice in this State for at least five years immediately prior to the date of appointment; 2) require that all three professional members of the Board be graduates from different chiropractic colleges; 3) provide terminology and proceedings for a license to be limited, restricted or placed under probation; 4) Authorize the board to adopt rules for continuing education requirements for reregistration of licenses; 5) require any person making application for reinstatement of a license which has been revoked, suspended, restricted, limited or placed under probation to complete such study as the Board may require, or to complete an approved course of continuing education as part of the relief granted for the reinstatement of his or her license.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs, Hawaii State Chiropractic Association, and Dr. Rathjen.

Your Committee finds that the question of continuing education for chiropractors bears further study and directs the Board to compile a report on continuing education for chiropractors and submit the report to your Committee for assessment.

Your Committee has amended the bill as follows:

1. Deleting the references to the requirement for continuing education to allow the Board time to complete its study and submit it to your Committee;

2. Adding provisions to require licensees utilizing physiotherapy modality to

have requisite physiotherapy training and be examined and passed by the Board;

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 H.B. No. 2418-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2418-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Uwaine and Henderson.

SCRep. 617-84 Economic Development on H.B. No. 2201-84

The purpose of this bill is to provide the Public Utilities Commission (PUC) with statutory authorization to render interim decisions granting rate relief to a utility until such time as the PUC is able to render a final decision on the appropriate amount of permanent rate relief to which a utility company may be entitled.

Your Committee finds that the current statutory standard of nine months for the conclusion of rate cases is reasonable. Based on the National Association of Regulatory Commissioners' Annual Report for 1981, the national average for telephone rate cases decided in that year was slightly less than seven months from the date of application until the final order. In 1982 the average was 7.12 months. According to the Regulatory Research Associate's report covering all state telephone and electric rate case decisions for the four-year period of 1980 through 1983, only 25 of over 900 decisions exceed 17 months, the time required in Hawaiian Telephone's last rate case.

Any delay of a rate decision is costly to the utility company, the State and County, and in the long run to the customers. While the utility gets to use about one-half of the increase, the other half goes to County, State, and Federal governments in the form of fees and taxes. Ratepayers can be adversely affected because the utilities' investors judge the utility company, in part, by its earnings record and demand higher interest on bonds and higher dividends for investing in utilities that do not have what they consider good earning records which results in higher operating costs. Thus, unanticipated and unreasonable delays deprive the utility company of a fair return, the governments of taxes, and customers of the lowest rate in the future.

It is the intent of this bill to enable the PUC to render interim decisions on utility rate applications and petitions. The interim decision does not necessarily authorize a rate increase and in no way is understood to be a final decision.

An amendment to the bill was proposed to require the PUC to conclude evidentiary hearings before rendering an interim rate decision. Although your Committee recognizes the desirability of the PUC completing its evidentiary hearings prior to rendering an interim decision, such a requirement could result in diluting the intent of this measure to prevent undue delays in processing of rate cases. In order to strike a balance between these competing interests, your Committee has amended the bill to allow the Commission, if it considers the evidentiary hearings incomplete, to postpone the interim rate decision for an additional thirty days.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2201-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2201-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 618-84 Judiciary on H.B. No. 2451-84

The purpose of this bill is to authorize the court, in cases of suspended sentences or probation, and the Hawaii Paroling Authority, in cases of parole, to prohibit an offender from entering specified geographical areas without the court's permission as a condition of such suspended sentence, probation or parole.

Specifically, the bill amends section 706-624, Hawaii Revised Statutes, to include, as a possible condition for suspended sentencing or probation, restrictions on an offender from entering specified geographical areas without the court's permission. The bill further amends section 706-760, Hawaii Revised Statutes, to authorize the Hawaii Paroling Authority to impose, as conditions of parole, any of the conditions available to a court in cases of suspended sentencing or probation.

Your Committee received favorable testimony on the bill from the Waikiki Improvement Association, Inc. and the Department of the Prosecuting Attorney, City and County of Honolulu. Your Committee finds that through the effective use of geographical restrictions as conditions for probation, parole and suspended sentences, many of Hawaii's tourist destination areas such as Waikiki can be protected from increasing crime. Your Committee further finds that conditions for probation, parole and suspended sentencing which limits an offender's freedom of movement are both reasonable and permissible since such conditions can assist in the deterrence of crime, rehabilitation of offenders and protection of the public's health, safety and welfare.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2451-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2451-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 619-84 Judiciary on H.B. No. 2142-84

The purpose of this bill is to provide for the assessment of alcohol dependence and the need for treatment for persons convicted of a second or third offense of driving while under the influence of alcohol in addition to other penalties under section 291-4 of the Hawaii Revised Statutes. Costs for assessment and treatment will be paid by the offender. However, the court may waive assessment where extenuating circumstances exist.

Under present law, a person convicted of a second offense of driving under the influence of alcohol shall have his or her driver's license suspended for up to one year, and shall either perform ten days or more of community service work, be imprisoned forty-eight or more consecutive hours, or be fined more than \$500 but less than \$1,000.

For conviction of a third offense of driving under the influence of alcohol, a person shall be fined more than \$500 but less than \$1,000, have his driver's license revoked for more than one year but less than five years, and be imprisoned for more than 10 days but less than one hundred-eighty days.

Your Committee amended the bill for purposes of clarity by adding a new subsection (c) which requires that persons convicted under section 291-4(b)(2) or (3), Hawaii Revised Statutes, shall be referred to a certified substance abuse counselor to be assessed for alcohol dependence and treatment. The counselor shall make recommendations to the court and the court may order necessary treatment. The costs of assessment and/or treatment must be paid by the offender unless the court finds there are extenuating circumstances. Language concerning assessment of and costs for alcohol dependence and treatment in subsection 291-4(b)(2)(B) and subsection 291-4(b)(3)(c), and a reference to section 321196, Hawaii Revised Statutes, requiring the Department of Health's adoption of rules, have been deleted.

The effective date of this bill, July 1, 1985, will provide the Department of Health with the necessary time to prepare for this program.

Your Committee finds that alcoholism is a very serious problem and that protecting the public from those persons who abuse alcohol and drive while under its influence is a major concern. The assessment of alcohol dependence and the need for treatment by a credentialed substance abuse counselor is a viable approach to reduce the incidence of drinking drivers.

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

No. 2142-84, 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. 2142-84, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Carpenter and George.

SCRep. 620-84 Judiciary on H.B. No. 1983-84

The purpose of this bill is to create a legal duty for persons to provide aid to victims of accidents or emergencies when those persons know the victims are suffering from serious physical injury. Reasonable assistance includes obtaining or attempting to obtain help from law enforcement or medical personnel. A person who fails to comply with this duty is guilty of a petty misdemeanor.

The bill further exempts from civil liability any person who provides reasonable assistance. Such person shall not be exempted, however, where the person's acts constitute gross negligence or the person receives or expects to receive remuneration. Persons who fail to provide reasonable assistance required by this bill will not be liable for civil damages.

Under present law, there is a legal duty to assist police officers as provided under section 710-1011 and a legal duty to assist in fire control as provided in section 710-1012 of the Hawaii Revised Statutes. Violations of these duties constitute a petty misdemeanor.

Testimony from the Honolulu Police Department expressed the concern that this bill would be unenforceable because, at the scene of an emergency, any number of persons may fail to provide reasonable assistance to the seriously injured. In this situation, it would be difficult, if not impossible, to place the responsibility on any one person for failing to render reasonable aid. Further, officers at the scene of an emergency have more pressing duties, such as tending to the injured and directing traffic, than pursuing onlookers or bystanders who fail to render assistance.

Your Committee supports the intent and purpose of this bill and finds that there is a dire need to promote public safety and welfare by encouraging people to come to the aid of others suffering grave physical harm. However, your Committee agrees that the bill poses numerous difficulties with enforcement and may also result in cases where persons with insufficient medical training feel compelled to render aid to avoid criminal sanctions and unintentionally worsen the condition of the injured victim.

In light of these concerns, your Committee amended the bill by deleting the requirement that persons render reasonable aid to gravely injured victims and the accompanying sections exculpating from civil liabilities those who either provide or fail to provide reasonable assistance. Thus, the extent of a person's duty to assist will be limited to obtaining or attempting to obtain aid from law enforcement or medical personnel when that person knows that the victim is seriously injured. Your Committee has broadened the types of situations where this duty arises to include crimes where the victims have been seriously injured. Also, your Committee has qualified this duty by providing that persons must seek aid only if they can do so without endangering any person.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1983-84, H.D. 1, as amended herein, and recommends it pass Second Reading in the form attached hereto as H.B. No. 1983-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 621-84 Judiciary on H.B. No. 1794-84

The purpose of this bill is 1) to permit the Department of Social Services and Housing to provide legal services to persons not receiving Aid to Families with Dependent Children on paternity and child support matters, and 2) to allow them to require payment for these services, and 3) to authorize them to promulgate rules to require payment.

Testimony by the Department of Social Services and Housing (DSSH) and the Department of the Corporation Counsel of the City and County of Honolulu

indicated that these legal services are currently being provided, pursuant to Federal statutes, but at no charge. However, recent Federal regulations permit either a flat dollar fee not to exceed \$20.00 or a fee schedule based upon income. Twenty-four states presently charge a flat fee and twelve others provide for the recovery of costs incurred in excess thereof which is also allowed under Federal regulations. The collection of fees will also help to reduce the administrative costs of DSSH.

Your Committee amended the bill to prohibit DSSH from mandating a fee from persons whose income and resources would qualify them for financial assistance but are not receiving such assistance. It believes that the DSSH's requirement of payment of fees from these people may raise a possible equal protection legal challenge because DSSH will not require a fee from people receiving aid to families with dependent children.

Your Committee also amended the bill to revise §584-9, §576-25, §580-15 to make these sections consistent with the proposed amendment to chapter 346. It further amended §584-9 to authorize the county attorney or corporation counsel to represent the child's custodial parent or the agency authorized to seek determination of paternity under chapter 346. Presently, representation is only afforded to the mother, which could raise an equal protection legal challenge by the father. Additionally, extending representation to agencies will assist in establishing paternities and securing support for the child.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1794-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1794-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 622-84 Judiciary on H.B. No. 1729-84

The purpose of this bill is to 1) provide that a patient who is under criminal charges but out on bond, bail, supervised release, or his own recognizance need not be returned to the custody of a law enforcement officer if the patient no longer meets the requirement for involuntary hospitalization; 2) provide that the court may adjourn or continue a hearing if the subject fails to contact an attorney and the court finds that it is in the interest of justice to do so; 3) extend the time for filing of an involuntary hospitalization petition when a voluntarily admitted patient requests a discharge on a weekend or holiday; 4) clarify the wording of the present law and conform it to recommended drafting style.

Your Committee finds that the proposed extension for filing will allow physicians more time to evaluate their patients and complete necessary documents, thereby alleviating pressure on hospital staff and the Attorney General's Office.

Your Committee further finds that authorizing the court to adjourn or continue the hearing if the subject fails to contact an attorney ensures that the subject will seek legal counsel to adequately defend the action.

Your Committee amended the bill to 1) delete the provision which would have freed the patient on bond, bail, supervised release, or on his own recognizance, if the patient no longer meets the criteria for involuntary commitment; and 2) make technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1729-84, 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. 1729-84, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator George.

SCRep. 623-84 Judiciary on H.B. No. 1681-84

The purpose of this bill is to amend Section 78-4, Hawaii Revised Statutes, to clarify that no person shall serve on more than one state board or commission expressly created by a state statute or the state Constitution. This would allow the person to simultaneously serve on a city or county board or commission.

The present statute is too restrictive because it does not allow civic-minded qualified persons to serve both state and city governments. Also, some boards or commissions require members who possess certain specific qualifications; finding eligible members to fill boards or commissions may be difficult in less populated areas of the state.

This bill clarifies the issue of dual membership by prohibiting persons from serving on more than one state board or commission.

Your Committee amended this bill to delete inactive organizations from the King Kamehameha Celebration Commission in order to promote more effective functions of the Commission and made further changes to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1681-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1681-84, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 624-84 Judiciary on H.B. No. 1629-84

The purpose of this bill is to:

- 1) Amend Part VII of Chapter 286, Hawaii Revised Statutes, by adding two new sections which authorize and set minimum standards for the establishment of intoxication control roadblock programs. These sections provide that:
 - a) Police departments of each county are authorized to establish intoxication control roadblock programs;
 - b) The chief of police of any county establishing an intoxication control roadblock program shall, by rules, specify procedures to carry out the program which follow the standards set by statute;
 - c) Either all motor vehicles approaching a roadblock shall be stopped, or vehicles shall be stopped in a specified numerical sequence;
 - d) Roadblocks shall be located at fixed points for a maximum of three hours;
 - e) Minimum safety precautions shall be provided at every roadblock;
 - f) Roadblocks shall be conducted to assure speedy compliance and a minimum of inconvenience to traffic;
 - g) Additional procedures may be required to lessen the intrusiveness of roadblock programs;
- 2) Amend Section 286-104, Hawaii Revised Statutes, concerning which persons shall not be issued a license by:
 - a) Providing for mandatory permanent revocation of drivers license for any person convicted of manslaughter from the use of a motor vehicle;
 - b) Requiring the surrender of a license issued to an unlicensed driver arrested for driving under the influence of intoxicating liquor where the license was issued during the time between the arrest and any conviction; and
 - c) Increasing the age at which a person may apply for a driver's license from seventeen to eighteen years of age;
- 3) Amend section 286-124, Hawaii Revised Statutes, concerning mandatory revocation of a driver's license by the court by:
 - a) Requiring mandatory revocation of a license upon conviction for either negligent homicide or inattention to driving when the driver

- was under the influence of intoxicating liquor and caused injury to another;
- b) Requiring mandatory revocation of a permit or nonresident operating privilege upon convictions for above offenses;
- 4) Amend section 286-128, Hawaii Revised Statutes, concerning the point penalty system for evaluating drivers by:
 - a) Amending the point penalty system to include additional points for multiple convictions for driving under the influence of intoxicating liquor;
 - b) Amending the point penalty system to increase the minimum amount of points to be assessed for various traffic violations;
 - c) Increasing the time period during which penalty points remain on a person's record from twelve to forty-eight months;
 - d) Providing for appeal from a district court to the intermediate court of appeals in cases involving the point penalty system;
 - e) Changing the language of the point penalty system to give the court discretion to assess points in specified cases where a traffic violation was due to the size or nature of the vehicle or the necessity of the driver following a specific route or schedule in the course of employment;
 - f) Increasing the amount of the fine which may be assessed by the court for a person who fails to attend a driver re-training course ordered as a result of a court review of his record from less than \$100 to more than \$100;
 - 5) Amend section 286-151, Hawaii Revised Statutes, to provide that any person operating a moped impliedly consents to a blood or breath test to measure the person's blood alcohol level;
 - 6) Amend section 286-152, Hawaii Revised Statutes, to grant immunity from civil liability to physicians, licensed laboratory technicians or registered nurses who withdraw blood for blood alcohol tests at the request of a police officer;

Your Committee received testimony from the State Department of Transportation, the Honolulu Police Department, the Honolulu Prosecuting Attorney's Office, and the American Civil Liberties Union.

With respect to the authorization and establishment of roadblock programs, your Committee finds that the detention of motorists at a roadblock checkpoint constitutes a seizure within the meaning of the Fourth Amendment to the U.S. Constitution which provides:

"The right of people to be secure, ...against unreasonable searches and seizures, shall not be violated..." (emphasis added)

Thus, this seizure and possible search of motorists at roadblock checkpoints must be reasonable. The reasonableness of a seizure is determined by balancing the state interest furthered by the intrusion against the privacy rights of the individual (Delaware v. Prouse, 440 U.S. 648 (1976)).

While there is no definitive holding by the U.S. Supreme Court authorizing the use of roadblocks, lower courts have recognized that the state interest in keeping drunk drivers off public highways may justify the intrusion created by a roadblock seizure. Without the use of roadblocks, the police could not detect many drunk drivers since not all of these drivers exhibit signs of intoxication. Further, such roadblocks increase the perceived risk of drunk-driving detection and thus deter motorists from attempting to drive while intoxicated (State v. Cocco, 177 N.J. Super. 575, 580 n. 4 (1980)):

Your Committee finds that the key provisions in this bill satisfy the minimum criteria for reasonableness established by the courts for the following reasons (See Ifft, Richard, "Curbing the Drunk Driver Under the Fourth Amendment:

The Constitutionality of Roadblock Seizures," 71 Georgetown Law Journal 1457 (June, 1983).):

- 1) Police discretion during roadblock operations should be limited to minimize arbitrary intrusiveness. This bill provides that roadblock procedures are to be specified by the chief of police in each county, either all motor vehicles or those in a specified numerical sequence shall be stopped, and roadblocks are to be located at fixed points for a maximum of three hours.
- 2) The physical circumstances surrounding roadblock stops should serve to dispel the fear of motorists detained at a sobriety checkpoint. This bill provides that motorists be given adequate advance warning of the existence and purpose of the roadblocks, either by sign posts, flares, or other methods, that uniformed police officers carry proper identification, and that there are a sufficient number of officers and official vehicles to assure speedy compliance.
- 3) The location of a roadblock must be chosen to ensure the safety of oncoming traffic. This bill provides for minimum safety precautions including proper illumination, safe holding areas for vehicles involved in any roadblock stop, and termination of the roadblocks where traffic congestion would otherwise result.

This bill affirms by statute the practice of the Honolulu Police Department which was upheld in State v. Austin, (Hawaii District Court, Honolulu Division, February 1984). This case is presently being appealed to the Hawaii Supreme Court.

While your Committee recognizes that the present bill satisfies minimum standards of reasonableness under the Fourth Amendment, your Committee also finds that a provision requiring a prior judicial warrant based on empirical data for a roadblock operation would prevent possible abuses in the location of the roadblocks without hampering police efforts in conducting effective roadblocks. Accordingly, your Committee has amended the bill to require that, prior to the operation of a roadblock, the police shall secure a judicial warrant. To obtain this warrant, an affidavit must be submitted to the court which sets forth sufficient facts and empirical data to justify the roadblock operation at a specific time and place.

Your Committee also amended this bill to delete the following:

- 1) Provision to increase the age at which a person may apply for a driver's license from seventeen to eighteen years of age;
- 2) Amendments to section 281-124, Hawaii Revised Statutes, concerning mandatory revocation of license, permit or nonresident operating privilege for convictions of certain offenses;
- 3) All amendments to section 286-128, Hawaii Revised Statutes, concerning the penalty system, with the exception of the amendment to include additional points for multiple convictions for driving under the influence of intoxicating liquor;
- 4) Amendment to section 286-151, Hawaii Revised Statutes, which provides that any person operating a moped impliedly consents to a blood or breath test to measure the person's blood alcohol level;
- 5) Amendment to section 286-152, Hawaii Revised Statutes, which grants immunity from civil liability to physicians, licensed laboratory technicians or registered nurses who withdraw blood for blood alcohol tests at the request of a police officer.

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. 1629-84, 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. 1629-84, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator George.

SCRep. 625-84 Judiciary on H.B. No. 1220

The purpose of this bill is to amend section 607-9, Hawaii Revised Statutes, to provide that recovery of costs to the prevailing party is allowed for in-state and out-of-state travel expenses for witnesses and counsel, deposition originals and copies, and other incidental expenses such as xerox costs, long distance telephone charges, and postage, which the court deems reasonably necessary to the success of the case by the court.

Only a portion of the actual expenses incurred by the successful party traditionally have been awarded by the courts of this State. Out-of-state travel, costs for deposition copies, and incidental expenses for duplicating copies, long distance telephone charges, and postage are not reimbursable.

Your Committee finds that litigation has become more complex with advances in modern technology, and litigants in serious personal injury, land, and commercial cases are faced with rising costs. Parties have to make serious financial sacrifices to properly prepare for trial or run the risk of losing the case.

Your Committee however is concerned that the bill would have a chilling effect on litigants who have a meritorious case but decide against pursuing or defending it for fear of having to pay exorbitant costs to the adverse party if they lose, in addition to paying for their own attorney's fees and costs. Your Committee recognizes that large commercial interests can invest much more resources to successfully litigate a case than the average citizen. The citizen with a valid cause should not be deterred from prosecuting or defending the case by the specter of payment of a disproportionate amount of costs in relation to their expenses for litigation and their economic condition. Your Committee amended the bill to require the court to examine and weigh the equity of the situation and the relative economic conditions of the parties in determining whether and what costs should be taxed.

Your Committee also made the following amendments to the bill:

1) it excluded as reimbursable costs in-state and out-of-state travel expenses for witnesses and counsel, and long distance telephone charges as too financially burdensome to the nonprevailing party;

2) it clarified that the prevailing party could recover the costs other than those enumerated in the bill. It is not the intent of this Committee to abrogate case law by statutorily prohibiting the recovery of those costs not specified in the bill, but previously awarded by the court;

3) it authorized the court to ascertain the reasonableness of the costs sought to be taxed by reinstating the language of the present statute and deleting the reference in the original bill to the court's ability to determine taxation based only upon whether the cost was reasonably necessary to the prosecution or defense of the action;

4) it made changes to the language of the bill and made other technical, nonsubstantive amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1220, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1220, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 626-84 Judiciary on H.B. No. 2032-84

The purpose of this bill is to amend section 571-52, Hawaii Revised Statutes, to:

- 1) empower the Family Court to order, on its own motion, without necessity of a hearing unless requested, an automatic assignment of wages for child support, if a court order, judgment, or decree provides for the automatic assignment, and the person (the "obligor") who is required to make the payment to the Clerk of the Court is delinquent for at least two months;

- 2) require the Family Court to establish and implement notice procedures to adequately protect the obligor's right to procedural due process, including provisions to notify the obligor that he has fourteen days to lodge a written objection to the assignment and a written request for a hearing, in which case the assignment will not issue until a hearing is held;
- 3) authorize the Clerk of the Court, in addition to the Family Court, to make a delinquency determination and to notify the obligor of his right to request in writing a hearing to object to the assignment within fourteen days;
- 4) amend the present statute regarding assignments for child support to allow petitions for assignments to be made when payments greater than or equal to an amount due over a two-month period have not been made;
- 5) allow automatic assignments and assignments by petition to cover accumulated arrears as well as future child support payments;
- 6) declare that automatic assignments and assignments by petition operate as an assignment by the obligor to the Clerk of the Court;
- 7) mandate that automatic assignments and assignments by petition have priority over garnishment, attachments, and other such orders, unless otherwise ordered by court; and
- 8) protect automatic assignments and assignments by petition from the exemptions and restrictions contained in the garnishment law.

Your Committee received testimony from the Family Court, the Department of Social Services and Housing, the Honolulu City and County Corporation Counsel and a private attorney in support of the bill.

Your Committee finds that timely payment of child support is an exception rather than a rule. Currently, a recipient, after failure to receive child support for at least three months, must further wait on the already crowded court calendar for the court to order the assignment. This in effect means that child support would be allowed to lapse for several months before the court acts to restore payments. Obviously, it is the child who is forced to suffer, some from only the loss of economic stability, others from the deprivation of the daily necessities of life.

This bill attempts to remedy the pervasive problem of the failure to pay child support. It offers two important advantages to the present system of assignment of wages. First, it assures that child support will be quickly resumed after the obligor's failure to pay. The bill provides a mechanism by which to avoid the lengthy court process. Second, the bill insures that the parties involved have due notice of the possible future assignment at the time the original order was entered by requiring that the automatic wage assignment provision be inserted in the order. It also carefully safeguards the obligor's rights by permitting the obligor to request a hearing if the obligor disagrees with the order of assignment.

Your Committee made the following amendments to the bill:

- 1) It shortened the length of time from two months to one month that payments must be delinquent before an automatic assignment can be made. Your Committee finds that the shortened delinquency period better serves the welfare of the child. At the same time, the rights of the obligor are still protected by the fourteen-day advance notice period during which the obligor can ask for a hearing to prevent the automatic wage assignment.
- 2) For clarity and style, it separated the automatic assignment provisions into a new section to be appropriately numbered.
- 3) It clarified that before the court or the clerk of the court issues the automatic wage assignment, the obligor shall be provided at least fourteen days advance written notice and informed that unless the obligor files a written objection and written request for a hearing, the automatic wage assignment will issue on a certain date.

- 4) It clarified that the court can assign a portion, rather than all, of future earnings or income.
- 5) It made technical, nonsubstantive amendments to the bill, including deletion of provisions already covered by the Hawaii Family Court Rules.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 2032-84, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2032-84, 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 and George.

SCRep. 627-84 Judiciary on H.B. No. 1148

The purpose of this bill is to 1) exempt hospital quality assurance committees from judicial discovery proceedings, 2) clarify that peer review committees of state, county, or local societies, or specialty medical, dental, or optometric societies will be so protected, and 3) limit the types of committees to which the exemption would apply.

Your Committee heard favorable testimony from the Hospital Association of Hawaii on this bill.

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 peer review committees of specialty societies perform useful services in helping to assure 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 further 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 amended the bill to specify that hospital quality assurance committees exempted from discovery are separate committees and not a part of the medical, dental, or optometric staffs of hospitals.

Your Committee also made technical, nonsubstantive amendments to the bill to conform to recommended drafting style and to clarify language.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1148, 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. 1148, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Carpenter and George.

SCRep. 628-84 Transportation on Gov. Msg. No. 223

Recommending that the Senate advise and consent to the nomination of HERBERT S. TSUDA to the State Highway Safety Council, for a term ending December 31, 1984.

Signed by all members of the Committee.

SCRep. 629-84 Tourism on S.R. No. 78

The purpose of this resolution is to request the Hawaii state legislature's support for the Australian Federation of Travel Agents (AFTA) Convention at

Keauhou-Kona, Hawaii from July 27, to August 2, 1985.

In 1982, Mayor Herbert T. Matayoshi of Hawaii County submitted a formal convention bid on behalf of a bid-organizing committee which included representatives of the Hawaii Visitors Bureau, Inter Island Resorts, the Keauhou-Kona Resort, and the County of Hawaii. The bid included supporting letters from Governor Ariyoshi, the Hawaii Visitors Bureau, Inter Island Resorts, and the Keauhou-Kona Resort Association. Representatives from Aloha Airlines, Gray Line Hawaii, and Bishop Corporation were added to create the Hawaii 1985 Organizing Committee.

Convention delegates will pay their own transportation to and from the convention (international and interisland air transportation) as well as their own room and personal costs. Favorable air fares have been negotiated, and room rates will reflect a 50 per cent discount.

Over 900 rooms in Keauhou-Kona are being blocked by the Kona Surf Resort, the Keauhou Beach Hotel, the Kona Lagoon Hotel, and Kanaloa at Keauhou for convention use.

At least 17 separate corporate sponsors are being sought and will be secured to host individual convention functions. It is expected that these sponsors will be companies from Hawaii as well as from other parts of the United States and the world.

Your Committee received testimony from the Department of Planning and Economic Development, the Mayor of Hawaii County, the Hawaii Visitors Bureau, Inter Island Resorts, and the Kamehameha Investment Corporation, which were all in support of the Australian Federation of Travel Agents Convention at Keauhou-Kona which would enhance the important travel market that includes Australia.

The chairperson of your Committee suggested that Mr. Jenkins be invited to the Senate chamber to be personally welcomed during his stopover between Australia and the mainland United States on April 2-4, 1984. This invitation will emphatically demonstrate the Hawaii State Senate's full support for the AFTA Convention which would help establish a symbiotic relationship.

Your Committee has amended the resolution by correcting grammatical and technical errors. The changes have no substantive effect.

Your Committee on Tourism concurs 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 except Senators Aki and Soares.

SCRep. 630-84 Tourism on S.C.R. No. 71

The purpose of this concurrent resolution is to request the Hawaii state legislature's support for the Australian Federation of Travel Agents (AFTA) Convention at Keauhou-Kona, Hawaii from July 27, to August 2, 1985.

In 1982, Mayor Herbert T. Matayoshi of Hawaii County submitted a formal convention bid on behalf of a bid-organizing committee which included representatives of the Hawaii Visitors Bureau, Inter Island Resorts, the Keauhou-Kona Resort, and the County of Hawaii. The bid included supporting letters from Governor Ariyoshi, the Hawaii Visitors Bureau, Inter Island Resorts, and the Keauhou-Kona Resort Association. Representatives from Aloha Airlines, Gray Line Hawaii, and Bishop Corporation were added to create the Hawaii 1985 Organizing Committee.

Convention delegates will pay their own transportation to and from the convention (international and interisland air transportation) as well as their own room and personal costs. Favorable air fares have been negotiated, and room rates will reflect a 50 per cent discount.

Over 900 rooms in Keauhou-Kona are being blocked by the Kona Surf Resort, the Keauhou Beach Hotel, the Kona Lagoon Hotel, and Kanaloa at Keauhou for convention use.

At least 17 separate corporate sponsors are being sought and will be secured to host individual convention functions. It is expected that these sponsors will be companies from Hawaii as well as from other parts of the United States and the world.

Your Committee received testimony from the Department of Planning and Economic Development, the Mayor of Hawaii County, the Hawaii Visitors Bureau, Inter Island Resorts, and the Kamehameha Investment Corporation, which were all in support of the Australian Federation of Travel Agents Convention at Keauhou-Kona which would enhance the important travel market that includes Australia.

The chairperson of your Committee suggested that Mr. Jenkins be invited to the Senate chamber to be personally welcomed during his stopover between Australia and the mainland United States on April 2-4, 1984. This invitation will emphatically demonstrate the Hawaii State Senate's full support for the AFTA Convention which would help establish a symbiotic relationship.

Your Committee has amended the concurrent resolution by correcting grammatical and technical errors. The changes have no substantive effect.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 71, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 71, S.D. 1.

Signed by all members of the Committee except Senators Aki and Soares.

SCRep. 631-84 Transportation on S.R. No. 40

The purpose of this resolution is to respectfully urge the Governor to immediately allot funds for the construction of the Ahukini Cutoff Road on Kauai.

Your Committee finds that the Ahukini Cutoff Road, first proposed in the 1950's, would divert away from the town of Hanamaulu at least fifty percent of the heavy traffic now traveling on the Hanamaulu/Lihue corridor. Design, route selection, land acquisition, environmental impact statement have all been completed and funds for the first portion of the project have been appropriated.

Your Committee heard testimony from the Department of Transportation that plans for the construction of this project are proceeding and that the Department should be able to advertise the construction of Unit 1 of Phase 1 by the first quarter of FY 1984-85. The estimated cost of Unit 1 of Phase 1 is \$4.5 million and would provide for the construction of the foundation and piers of the bridge.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 40 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 632-84 Education on H.B. No. 1864-84

The purpose of this bill is to allow school district advisory councils to advise the Board of Education on the development of policies without the request of the Board.

Presently, advisory councils can only advise the Board when requested. According to testimony presented by the Hawaii State Teachers Association, the present law discourages advisory councils from taking the initiative on matters relating to the development of Board policies.

This bill would remove any apparent restrictions placed on advisory councils and foster and encourage communication between the Board and advisory councils.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1864-84 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 Young and Ajifu.

SCRep. 633-84 Education on Gov. Msg. Nos. 96, 142, 144, 145, 146, 147 and 219

Recommending that the Senate advise and consent to the nominations of the following:

EDWIN T. HARA to the 1984 Hawaii Statehood Silver Jubilee Committee, for a term ending June 30, 1986;

JOHN A. THOMPSON, Ph.D., to the Education Commission of the States, for a term ending December 31, 1987;

BETTY HEMPHILL to the Library Advisory Commission, City and County of Honolulu, for a term ending December 31, 1987;

HIDEO KUNIYOSHI to the Library Advisory Commission, County of Hawaii, for a term ending December 31, 1987;

KERRY Y. OGAWA, LAWRENCE KAWASAKI, and EDWARD ESPIRITU, JR., to the Library Advisory Commission, County of Maui, for terms ending December 31, 1987; and

ARTHUR FUMIO KOGA to the Hawaii Education Council, for a term ending December 31, 1986.

Signed by all members of the Committee except Senator Ajifu.

SCRep. 634-84 Education on S.R. No. 21

The purpose of this resolution is to request the Department of Education (DOE) to respond to the July 1983 report by the Hawaii Advisory Committee to the U.S. Commission on Civil Rights.

In 1980, in response to citizen and community concern that the ethnic composition of the DOE's administrative and teaching staff was imbalanced, the Hawaii Advisory Committee to the U.S. Commission on Civil Rights began investigating the affirmative action policies and practices of the DOE.

The Committee's report, issued in July of 1983 found that:

- (1) The DOE's affirmative action plan has not been revised since its adoption in 1976 and that the plan is based on outdated census figures;
- (2) Certain ethnic groups are underrepresented in the DOE's staff and that there has been little or no improvement in this area;
- (3) The Affirmative Action Advisory Council established by the Board of Education (BOE) to monitor and evaluate affirmative action in the DOE has not met in over two years; and
- (4) The BOE's "affirmative action policy has not achieved meaningful results."

The importance of affirmative action warrants the reactivation of the Affirmative Action Advisory Council to address the concerns raised by the Hawaii Advisory Committee and the citizens and community groups of our State.

Your Committee is aware of the former Superintendent's response to the report by the Hawaii Advisory Committee and the DOE's development of a new affirmative action plan. According to the response, "the new plan does not call for hiring on the basis of race or sex -- but on merit." This policy may be contrary to the intent of affirmative action and may not solve the problems addressed by the Hawaii Advisory Committee. Therefore, your Committee recommends that this hiring policy be studied and addressed by the Affirmative Action Advisory Council

The resolution has been amended by specifying that the DOE is requested to respond to the concerns of this resolution twenty days prior to the convening of the regular session of 1985.

Your Committee on Education is in accord with the intent and purpose of S.R.

No. 21, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 21, S.D. 1.

Signed by all members of the Committee except Senators Young and Ajifu.

SCRep. 635-84 Judiciary on H.B. No. 1854-84

The purpose of this bill is to amend section 23G-15, Hawaii Revised Statutes, to enable the Revisor of Statutes to change statutory language by removing gender-specific terminology without altering the sense, meaning, or effect of any act, when the Revisor prepares supplements and replacement volumes of the Hawaii Revised Statutes.

Your Committee received favorable testimony on this bill from the Hawaii State Commission on the Status of Women and the City and County of Honolulu's Committee on the Status of Women in support of this bill.

Your Committee finds that the removal of stereotyped language in the Hawaii Revised Statutes is in accord with the Equal Rights Amendment of the Constitution of the State of Hawaii, which guarantees equality of the sexes. Your Committee supports the efforts to change the present statutes to gender-neutral terms in the spirit of equal rights legislation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1854-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 636-84 (Majority) Judiciary on H.B. No. 1947-84

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article III, Section 12, of the Constitution of the State of Hawaii to repeal the provision which establishes the deadline for introducing bills to be considered in a regular session.

Currently, Article III, Section 12, of the Constitution of the State of Hawaii provides that the deadline for introducing bills to be considered in the regular session shall be after the nineteenth day of the session and shall precede the commencement of the mandatory recess.

The amendment proposed by this bill, if ratified by the electorate, will allow the Legislature to provide for an earlier deadline date for the introduction of bills and may be combined with a greater use of "prefiling" of bills, or the filing of bills prior to the convening of the Legislature.

The following is an example of the flexibility of the legislative calendar if the bill introduction deadline were eliminated:

- (1) Bill introduction begins on the first Wednesday in January, two weeks before the legislature convenes. This allows the public to familiarize itself with legislation, prepare testimony, and consult with legislators, before the legislators' time is taken up by committee meetings. It allows the public more time to research the issues and prepare more detailed and thoughtful testimony.
- (3) The Legislature convenes on the third Wednesday in January. Non-essential legislative business is deferred, according to custom and tradition, to allow for the opening day festivities.
- (4) The first week of the session would see the Legislature in full action. Committee chairpersons would hold hearings. This would be in contrast to the current "slow period" at the beginning of each session which results from the relative dearth of legislation.
- (5) Bill introductions would be cut-off sometime after the first week, but before the end of the second week of session. The result of this approach is to spread the workload more evenly over the 60-day session. The principal benefits of this would be:

- (a) More time would be available for hearings by committees. Thus,

shorter agendas would be possible. Shorter agendas would result in more deliberative hearings and shorter waiting periods for persons wishing to testify.

- (b) Committee chairpersons could more easily group bills which deal with the same or related subject matters onto a single agenda. This would be a great convenience to people who wish to testify, including members of the public, lobbyists, and department personnel.
- (c) There would be less pressure to hold hearings during the legislative recess or during late evening hours which are inconvenient to the general public.
- (d) It would be possible to provide more timely notice of hearings to the general public.

The consequences of the ratification of this proposed constitutional amendment will be to allow for a more deliberative, open, and rational legislative process. The result should be better legislation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1947-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Carpenter did not concur.

SCRep. 637-84 Judiciary on H.B. No. 1948-84

The purpose of this bill is to bring before the electorate of the State a proposed amendment to Article III, Section 10, of the Constitution of the State of Hawaii to provide the Legislature with flexibility regarding the mandatory recess, by 1) clarifying that the recess need not run for five consecutive days, 2) deleting the specific time period within which the recess must occur, 3) establishing that the recess will occur after the deadline for the introduction of bills, and 4) requiring that the majority of each house adopt the recess dates by a concurrent resolution.

The present Constitution, as amended by the 1978 Constitutional Convention, requires a mandatory recess of not less than five days, at some period between the twentieth and fortieth days of the regular session.

The recess usually is scheduled for five consecutive days shortly after the deadline for bill introduction. At this point, all of the bills have been introduced and referred to committees. This is an appropriate time to have a recess. It allows legislators, staff, and the public time to review all of the bills that have been introduced and their referrals, before any deadlines for the movement of bills have passed.

The major disadvantage with having a five consecutive day recess almost immediately after the deadline for bill introduction is the length of the recess. Five consecutive days is too long for the legislative process to pause, especially with the limited time in which to hold hearings. As a consequence, it has become standard practice to hold hearings during the recess. This practice may well be contrary to the intent of the drafters of the constitutional provision for a recess.

Your Committee finds that another recess may be warranted after the deadline for the exchange of bills between houses. Such a recess would be appropriate because the "crossover" deadline effectively separates the majority of bills that cannot pass in the current year from the minority of bills which are still "alive". This is a good time to pause and assess the status of the various bills.

Some may prefer for the recess to occur earlier in the session, so they can review all of the legislation that has been introduced before any of it has been "lost in the shuffle". Others prefer for the recess to occur after the "crossover" deadline, so that they can concentrate their efforts on the bills that have a reasonable chance of passing.

If the constitutional amendment embodied in this bill is approved by the electorate, the Legislature will have flexibility to have the five consecutive day recess divided into shorter time periods. For example, there can be a three day recess after the deadline for bill introduction and a two day recess after the "crossover" deadline.

Also, if there are two shorter recesses, it is more likely that the Legislature will not have to hold hearings during the recess. Thus, shorter and more frequent recesses will better serve the needs of the public and the objectives of the drafters of the recess provision.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1948-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 638-84 Tourism on S.R. No. 68

The purpose of this resolution is to request the Department of Planning and Economic Development to conduct a feasibility study relating to the concept of Hawaii as "The Healing Islands".

Hawaii, which is one of the world's finest resort and vacation centers, welcoming more than four million visitors annually, is noted for its "Aloha Spirit" that conveys warmth and consideration. It is a place where millions of people come to relax, recreate, find peace, seek a change of pace, and restore body and spirit.

Each year, millions of people visit specific shrines, religious and historic, in Europe, Asia, and the Americas, for what is perceived as important spiritual benefits. In many countries this spiritual or inspirational hunger is satisfied to some degree by great national shrines, such as those at Ise and Nara in Japan; at Lourdes in France and Fatima in Portugal; in Mecca; and in Washington, D.C.

Hawaii's visitors are lured to the Islands by strong promotional efforts that emphasize the warm climate, scenic views, and a myriad of fun activities. Generally, visitors to Hawaii are left on their own to seek out their preferred spiritual or inspirational adventures. Your Committee believes that there is considerable potential for economic and social benefits through a carefully planned program of promotion of Hawaii as "the Healing Islands", a place for spiritual and inspirational activities centered on specific places and events in Hawaii's history. For example, throughout our islands there are historic Congregational and Catholic churches and Buddhist temples which are already preserved; the activities of the Mormon Temple and Polynesian Cultural Center; and the various modern sects which are offshoots of Buddhism. There are hundreds of churches and temples and more than 80 denominations in Hawaii.

Your Committee also believes that the "Healing Islands" concept proposed by this resolution could emphasize Hawaii's progress in physical rehabilitation. Hawaii's hospice and other care services for the sick and dying also could be linked in appropriate ways for interested visitors. With the increased level of interest of people around the world in their own physical well-being and their involvement in team sports or individual exercise programs, the proposed establishment of a Pacific sports-medicine center for research relating to injury prevention will aid in identifying Hawaii as an important "healing arts" center.

Mr. Kent Keith, Director of Planning and Economic Development, testified in support of the resolution. Mr. Keith estimated the cost of the study to be \$10,000 to \$12,000 and noted that this amount could be available from the Industry and Product Promotion program, thus, precluding any need for a new appropriation. Mr. Keith also stated that this study would be consistent with the goals and objectives of the Hawaii State Plan relating to maintaining quality tourism development, while retaining a sensitivity to Hawaii's multi-ethnic and multi-religious heritage.

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

Signed by all members of the Committee.

SCRep. 639-84 Tourism on S.C.R. No. 58

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to conduct a feasibility study relating to the concept of Hawaii as "The Healing Islands".

Hawaii, which is one of the world's finest resort and vacation centers, welcoming more than four million visitors annually, is noted for its "Aloha Spirit" that conveys warmth and consideration. It is a place where millions of people come to relax, recreate, find peace, seek a change of pace, and restore body and spirit.

Each year, millions of people visit specific shrines, religious and historic, in Europe, Asia, and the Americas, for what is perceived as important spiritual benefits. In many countries this spiritual or inspirational hunger is satisfied to some degree by great national shrines, such as those at Ise and Nara in Japan; at Lourdes in France and Fatima in Portugal; in Mecca; and in Washington, D.C.

Hawaii's visitors are lured to the Islands by strong promotional efforts that emphasize the warm climate, scenic views, and a myriad of fun activities. Generally, visitors to Hawaii are left on their own to seek out their preferred spiritual or inspirational adventures. Your Committee believes that there is considerable potential for economic and social benefits through a carefully planned program of promotion of Hawaii as "the Healing Islands", a place for spiritual and inspirational activities centered on specific places and events in Hawaii's history. For example, throughout our islands there are historic Congregational and Catholic churches and Buddhist temples which are already preserved; the activities of the Mormon Temple and Polynesian Cultural Center; and the various modern sects which are offshoots of Buddhism. There are hundreds of churches and temples and more than 80 denominations in Hawaii.

Your Committee also believes that the "Healing Islands" concept proposed by this concurrent resolution could emphasize Hawaii's progress in physical rehabilitation. Hawaii's hospice and other care services for the sick and dying also could be linked in appropriate ways for interested visitors. With the increased level of interest of people around the world in their own physical well-being and their involvement in team sports or individual exercise programs, the proposed establishment of a Pacific sports-medicine center for research relating to injury prevention will aid in identifying Hawaii as an important "healing arts" center.

Mr. Kent Keith, Director of Planning and Economic Development, testified in support of the concurrent resolution. Mr. Keith estimated the cost of the study to be \$10,000 to \$12,000 and noted that this amount could be available from the Industry and Product Promotion program, thus, precluding any need for a new appropriation. Mr. Keith also stated that this study would be consistent with the goals and objectives of the Hawaii State Plan relating to maintaining quality tourism development, while retaining a sensitivity to Hawaii's multi-ethnic and multi-religious heritage.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 58 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 640-84 Economic Development on Gov. Msg. No. 98

Recommending that the Senate advise and consent to the nominations, on interim appointment, to the Board of Directors for the High Technology Development Corporation of the following:

DAVID A. HEENAN and PAUL C. YUEN, for terms ending December 31, 1984;

THOMAS R. MOORE and KWOCK TIM YEE, for terms ending December 31, 1985; and

THOMAS T. ENOMOTO, THOMAS B. HAYWARD and RAYMOND D.S. LUM, for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 641-84 Economic Development on Gov. Msg. No. 138

Recommending that the Senate advise and consent to the nomination of AARON LEVINE to the Board of Directors, Aloha Tower Development Corporation, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 642-84 Economic Development on Gov. Msg. No. 139

Recommending that the Senate advise and consent to the nominations of ELIZABETH ALISON KAY, Ph.D., and TONNIE L.C. CASEY to the Animal Species Advisory Commission, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 643-84 Economic Development on Gov. Msg. No. 140

Recommending that the Senate advise and consent to the nominations of ALIKA COOPER, LOUIS AGARD and WINFRED HO to the Hawaii Fisheries Coordinating Council, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 644-84 Tourism on H.C.R. No. 25

The primary purpose of this concurrent resolution, as received by your Committee, is to adopt the State Historic Preservation Plan of October, 1982 as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

Your Committee finds that out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes), also referred to as The Hawaii State Plan. Emphasis on legislative participation in the overall government planning process is contained in the Act's broad goals, objectives, policies, and priority directions intended to direct the State's future growth and development, and the submittal of twelve (12) functional plans for specified areas of governmental activity to the Legislature.

In accordance with the provisions of Chapter 226, Hawaii Revised Statutes, the Department of Land and Natural Resources prepared the State Historic Preservation Plan of October, 1982, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to recreation and the plan was submitted to the Twelfth State Legislature, Regular Session of 1983.

After duly reviewing the State Historic Preservation Plan of October, 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Historic Preservation Plan dated November 21, 1983, and the amendments made to the plan, attached as Exhibit A, your Committee has further modified the plan and the amendments contained in Exhibit A.

Your Committee has amended Exhibit A inserting a new paragraph (2), to read as follows:

"(2) Amend page 1, IA, ROLE OF THE STATE FUNCTIONAL PLANS, of the plan document to delete "manage and coordinate" and substitute the word "guide" and to delete the words "to guide" in the first paragraph, to read as follows:

"Chapter 226, Hawaii Revised Statutes, The Hawaii State Plan, provides a long-range guide for Hawaii's future and establishes a Statewide Planning System. The system includes the formulation of the 12 State Functional Plans to [manage and coordinate] guide functional area activities and [to guide] resource allocation decision making. In addition to this plan on tourism, plans have been prepared for the following functional areas:..."

The original paragraph (2) and the following paragraphs were appropriately renumbered to reflect this amendment.

Your Committee also amended the concurrent resolution as received, by:

- 1) Amending page 1, paragraph 3, lines 4 and 5, to delete the words "so that" and inserting "to guide the implementation of" and deleting the phrase "can be implemented";
- 2) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;
- 3) Amending language in the BE IT RESOLVED clause and in the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and
- 4) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Historic Preservation Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan Objectives.

Your Committee is concerned with the relationship between the State Historic Preservation Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Historic Preservation Functional Plan for the State of Hawaii, to be effective upon passage of H.B. 177, H.D. 1, S.D. 1, by both Houses of the Hawaii State Legislature and upon H.B. 177, H.D. 1, S.D. 1, becoming law with or without signature of the Governor. Should H.B. 177, H.D. 1, S.D. 1, not be enacted into law, then the Concurrent Resolution shall not become effective.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 25, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as H.C.R. No. 25, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 645-84 Tourism on H.C.R. No. 23

The primary purpose of this concurrent resolution, as received by your Committee, is to adopt the State Recreation Plan of October, 1982 as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

Your Committee finds that out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes), also referred to as The Hawaii State Plan. Emphasis on legislative participation in the overall government planning process is contained in the Act's broad goals, objectives, policies, and priority directions which are intended to direct the State's future growth and development. Further, the Act requires the submittal of twelve (12) functional plans for specified areas of governmental activity to the Legislature.

In accordance with the provisions of Chapter 226, Hawaii Revised Statutes, the Department of Land and Natural Resources prepared the State Recreation Plan of October, 1982, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to recreation and the plan was submitted to the Twelfth State Legislature, Regular Session of 1983.

After duly reviewing the State Recreation Plan of October, 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Recreation Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee has further modified the plan and the amendments of Exhibit A.

Your Committee has amended Exhibit A in the following principal respects:

- (1) Inserted a new paragraph (2), to read as follows:

"(2) Amend page 1, IA, ROLE OF THE STATE FUNCTIONAL PLANS, of the plan document to delete "manage and coordinate" and substitute the word "guide" and to delete the words "to guide" in the first paragraph, to read as follows:

"Chapter 226, Hawaii Revised Statutes, The Hawaii State Plan, provides a long-range guide for Hawaii's future and establishes a Statewide Planning System. The system includes the formulation of the 12 State Functional Plans to [manage and coordinate] guide functional area activities and [to guide] resource allocation decision making. In addition to this plan on tourism, plans have been prepared for the following functional areas:..."

The original paragraph (2) and the following paragraphs were appropriately renumbered to reflect this amendment.

- (2) Delete paragraph (15), proposed Implementing Action C(1)(d).

Your Committee finds that the proposed language of paragraph (15) is contrary to the original intent of the park dedication law which is to provide for the recreational needs of purchasers or occupants of lots or units in a subdivision and not for the recreational needs of the general public.

Further, the proposed amendment seeks to maximize the amount of land or funds to be dedicated for public recreation uses at the expense of the new homebuyer. The dedication of park lands and the payment of fees by a developer are development costs which are ultimately paid for by the purchasers of the subdivision. It would be unfair to place an additional burden of paying for public recreational facilities on the new homebuyer. Such added development costs would be passed onto the consumer in the form of higher prices and the imposition of such requirements may discourage the initiation of new projects.

Your Committee also amended the concurrent resolution, as received, by:

- 1) Amending the third WHEREAS clause to delete the words "so that" and inserting "to guide the implementation of" and deleting the phrase "can be implemented";

Your Committee finds that this amendment is necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

- 2) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;
- 3) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and
- 4) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Recreation Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Recreation Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Recreation Functional Plan for the State of Hawaii, to be effective only upon enactment of H.B. 177, H.D. 1, S.D. 1, into law.

Your Committee on Tourism concurs with the intent and purpose of H.C.R.

No. 23, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as H.C.R. No. 23, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 646-84 Tourism on H.C.R. No. 26

The primary purpose of this concurrent resolution, as received by your Committee, is to adopt the State Tourism Plan of October, 1982 as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

Your Committee finds that out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes), also referred to as The Hawaii State Plan. Emphasis on legislative participation in the overall government planning process is contained in the Act's broad goals, objectives, policies, and priority directions intended to direct the State's future growth and development, and the submittal of twelve (12) functional plans for specified areas of governmental activity to the Legislature.

In accordance with the provisions of Chapter 226, Hawaii Revised Statutes, the Department of Planning and Economic Development prepared the State Tourism Plan of October, 1982, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to tourism, and the plan was submitted to the Twelfth State Legislature, Regular Session of 1983.

After duly reviewing the State Tourism Plan of October, 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Tourism Plan dated November 21, 1983, and the amendments made to the plan, attached as Exhibit A, your Committee has further modified the plan and the amendments contained in Exhibit A.

Your Committee has amended Exhibit A in the following principal respects:

(1) Inserted a new paragraph (3), to read as follows:

"(3) Amend page 1, IA, ROLE OF THE STATE FUNCTIONAL PLANS, of the plan document to delete "manage and coordinate" and substitute the word "guide" and to delete the words "to guide" in the first paragraph, to read as follows:

"Chapter 226, Hawaii Revised Statutes, The Hawaii State Plan, provides a long-range guide for Hawaii's future and establishes a Statewide Planning System. The system includes the formulation of the 12 State Functional Plans to [manage and coordinate] guide functional area activities and [to guide] resource allocation decision making. In addition to this plan on tourism, plans have been prepared for the following functional areas:..."

The original paragraph (3) and the following paragraphs were appropriately renumbered to reflect this amendment.

(2) Amended paragraph (4), page 1, and renumbered as paragraph (5), to read as follows:

"(5) Revise IMPLEMENTING ACTION B(1)(a), page 15 to read:

"Give preference to the development of [full-service hotels over any other type of visitor accommodations] an orderly mix of visitor accommodations including full-service hotels, condominium apartments, and some single-family homes, in order to meet the lodging desires of the broad spectrum of our visitor guests.

Lead Organizations: County planning and land use agencies

Assisting Organizations: LUC, Hawaii Hotel Association, Hawaii Resort Developers Conference (HRDC)

Time Frame: Ongoing"

Rationale: It is necessary to provide a reasonable mix of available accommodations in order to cater to the greatest number of potential visitors to Hawaii. Condominium apartments and in some cases, single-family homes provide desired accommodations for family groups of longer staying, higher spending visitor. A certain mix of condominium apartments is necessary to make the creation of a destination resort financially viable. No condominiums means fewer full-service hotels will be built.

Your Committee finds that this amendment reflects the concerns of the Hawaii Resort Developers Conference that a diversity of visitor accommodations is necessary to maintain a competitive position in various tourist market segments.

- (3) Added a paragraphs (7), (8) and (9), further incorporating the recommendations contained in the Findings and Recommendations of the State Plan Policy Council on the State Tourism Plan, dated November 21, 1983, to read as follows:

"(7) Revise IMPLEMENTING ACTION B(4)(a), page 18, to read:

"[Restrict] Discourage the redistricting of land to 'Urban' classification where resort uses are proposed outside of designated visitor destination areas.

Lead Organizations: [LUC] DPED, County planning and land use agencies

Assisting Organizations: [County planning and land use agencies]
LUC

Time Frame: Ongoing"

Rationale: The revision to the action statement is recommended because of concerns expressed that the word "restrict" may be too prohibitive. As a result of this proposed revision, a change must also be made to the lead organization. Since it is inappropriate for the Land Use Commission, as a regulatory decision-making body, to "discourage" petitioners from initiating changes, the lead organizations should be the State and County agencies that are parties to every petition acted upon by the LUC."

- "(8) Revision of Implementing Action B(4)(a) also necessitates amendments to the State Tourism Plan on page 9, paragraph (3), under "Conversion of Important Agricultural Lands to Urban Use, to read as follows:

"While much of the land converted to resort use is not suitable for agriculture, the use of certain lands for resort purposes may have an impact on agricultural lands. In accordance with The Hawaii State Plan policies and Priority Directions which call for the protection of agricultural lands and the need to develop consistent policies among State Functional Plans, the State Tourism Plan includes implementing actions directing resort development to take place within designated areas (Action B(4)(a)). The plan further calls for the [Land Use Commission to restrict] State and County planning and land use agencies to discourage the redistricting of land to urban where resort uses are proposed outside the designated visitor destination areas (Action B(4)(a)).

- "(9) Revise IMPLEMENTING ACTION B(4)(e), page 19 to read:

"Resort development [shall] should take place within designated visitor destination areas."

Rationale: Concerns have been expressed over the use of terms such as "shall" and "will" in the plans because they appear to be mandatory in nature. The change is being suggested primarily to avoid any misinterpretation to the understanding that the plans are to be utilized as guidelines."

Your Committee also amended the concurrent resolution as received, by:

- 1) Amending page 1, paragraph 3, lines 4 and 5, to delete the words "so that" and inserting "to guide the implementation of" and deleting the phrase "can be implemented";
- 2) Amending page 1, paragraph 5, line 3, to delete the word "implement" and substitute the words "guide the implementation of";
- 3) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;
- 4) Amending language in the BE IT RESOLVED clause and in the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and
- 5) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Tourism Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan Objectives.

Your Committee is concerned with the relationship between the State Tourism Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Tourism Functional Plan for the State of Hawaii, to be effective only upon enactment of H.B. 177, H.D. 1, S.D. 1.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 26, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as H.C.R. No. 26, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 647-84 Health on H.B. No. 1662-84

The purpose of this bill is to provide that the Department of Health's children's mental health services shall be planned on a four-year basis.

Currently, children's mental health services are planned for five-year periods while all other mental health and substance abuse services are planned on a four-year basis. Your Committee heard testimony from the Department of Health to the effect that this proposal will permit a single coordinated plan for all mental health services, and finds that this bill will facilitate the Department's mental health activities by providing the closest possible relationship between planning and biennial budgeting. Developing children's mental health services on any other basis is inefficient and unnecessarily costly.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1662-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 648-84 Health on H.B. No. 2233-84

The purpose of this bill is to clarify the definition of "dangerous to self", a term which is used to determine whether an individual should be involuntarily hospitalized pursuant to section 334-60, Hawaii Revised Statutes.

"Dangerous to self", as it is currently defined, is difficult to interpret and therefore results in inconsistent interpretations by judges of the Family Court. Your Committee heard testimony from the Family Court and the Department of Health and finds that this bill will result in greater uniformity of interpretation

and will clarify guidelines by which Family Court judges determine whether a person is, in fact, dangerous to himself or herself and in need of involuntary inpatient treatment. Your Committee further finds that this measure does not substantially or materially alter the meaning or intent of statutes relating to involuntary hospitalization.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2233-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 649-84 Health on H.B. No. 1738-84

The purpose of this bill is to extend until June 30, 1989, the requirement that women applying for a marriage license be serologically tested for rubella (german measles), and to require the Department of Health to notify women who are found to be susceptible.

Under present law, the Department's mandatory premarital rubella screening program lapses on June 30, 1984. Your Committee heard testimony from the Department of Health that despite the efforts of the Department and the medical community, sixteen per cent of the women tested for rubella are susceptible. Your Committee finds that this is still well above the recommended level of less than ten per cent susceptibility. Therefore, the continuation of the rubella testing requirement for an additional five years is necessary.

Your Committee received testimony in support of this bill from the Department of Health, the Commission on the Handicapped, the Coordinating Council on Services for the Deaf-Blind and Severely Multiply Handicapped in Hawaii, the Easter Seal Deaf-Blind Project, and eight private citizens, and finds that continuation of rubella testing is necessary to reach the goal of eliminating this crippling disease from our State, and is therefore in the public interest and in accord with the announced public policy of this Committee and the Legislature as a whole. In addition, your Committee finds that this bill will statutorily require the Department of Health's already existing practice of notifying rubella-susceptible women by mail. This requirement is necessary and in furtherance of the overall goal.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1738-84, 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. 650-84 Health on H.B. No. 1741-84

The purpose of this bill is to allow the Director of Health to purchase needed mental health services from private for-profit organizations when it is in the public interest to do so.

Currently, the Director may only enter into agreements with private nonprofit groups, institutions, or corporations. Your Committee heard favorable testimony by the Department of Health, and finds that this bill will allow the Director greater latitude in discharging the duties of the Department of Health by entering into agreements for needed services which might not otherwise be available.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1741-84, 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. 651-84 Health on H.C.R. No. 21

The purpose of this Concurrent Resolution is to adopt the State Health Functional Plan of October, 1982, as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

Your Committee finds that out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act

(Chapter 226, Hawaii Revised Statutes), also referred to as The Hawaii State Plan. Emphasis on legislative participation in the overall government planning process is contained in the Act's broad goals, objectives, policies, and priority directions intended to direct the State's future growth and development, and the submittal of twelve (12) functional plans for specified areas of governmental activity to the Legislature.

In accordance with the provisions of Chapter 226, Hawaii Revised Statutes, the Department of Health prepared the State Health Functional Plan of October, 1982, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to health, and the plan was submitted to the Twelfth State Legislature, Regular Session of 1983.

After duly reviewing the State Health Functional Plan of October, 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Health Plan dated November 21, 1983, your Committee recommends that the State Health Functional Plan, as transmitted by the Governor to the Legislature and as modified by the amendments set forth in Ramseyer format in the attached Exhibit A, be adopted as the State Health Functional Plan.

Your Committee amended Exhibit A by making technical changes to conform to recommended drafting style which have no substantive effect.

Your Committee amended the concurrent resolution, as received, by:

1. Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;
2. Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and
3. Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Health Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Health Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as a guideline for the State and Counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Health Functional Plan for the State of Hawaii, to become effective only upon passage of H.B. No. 177, H.D. 1, S.D. 1, by both Houses of the Hawaii State Legislature and H.B. No. 177, H.D. 1, S.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 21, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as H.C.R. No. 21, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 652-84 Education on S.R. No. 36

The purpose of this resolution is to request the Department of Education to construct a new public library for Kailua-Kona.

Although Kailua-Kona is the commercial and business center of the Big Island's west side, and has a population of 15,000 which is expected to double in six years, the public library for Kailua-Kona has not kept up with the needs of this growing community.

The present library located in the old Kona school is only 900 square feet but must accommodate a circulation rate of 54,000 items per year. The library is also the third busiest on the island, therefore accounting for the numerous

complaints made about its small size and limited collection.

Your Committee finds that since the size of a library dictates the kinds of services that are offered to the public and for the reasons set forth above, the Kailua-Kona library should be at least 7,500 square feet in area, or almost ten times its present size. Your Committee concurs with the State Librarian's recommendation that a new library for Kailua-Kona be given top priority.

Your Committee on Education concurs with the intent and purpose of S.R. No. 36 and recommends its adoption.

Signed by all members of the Committee except Senators Aki, Holt and A. Kobayashi.

SCRep. 653-84 Ways and Means on H.B. No. 1720-84

The purpose of this bill is to appropriate \$200,000 for the 1984 Hawaii Statehood Silver Jubilee.

Your Committee finds that \$315,000 is required to fund all the statehood celebratory programs through August 21, 1984, the closing date of the jubilee. Pledges to the Hawaii Statehood Silver Jubilee Committee include \$70,000 from the business community and \$20,000 from other sources. In addition royalties and gifts will total about \$15,000. The appropriation provided by this bill will provide much of the funds required to ensure a worthy statehood silver jubilee observance.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1720-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 654-84 (Majority) Ways and Means on H.B. No. 2039-84

The purpose of this bill is to increase from \$100,000 to \$250,000 the maximum amount which the department of planning and economic development can loan to any one small business concern under section 210-6, Hawaii Revised Statutes.

Your Committee finds that the existing loan program needs greater flexibility to participate in major projects involving substantial employment and diversification activities. Approximately ten per cent of present loan applicants are in need of loans in excess of \$100,000. Increasing the loan ceiling to \$250,000 would provide the needed flexibility to finance larger projects.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2039-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 655-84 Ways and Means on H.B. No. 1636-84

The purpose of this bill is to make an appropriation of \$2,742,413 for fiscal period 1983-1985 to purchase equipment for Hilo Hospital.

Your Committee heard the companion bill on this subject S.B. No. 1843-84.

The new acute care facility at Hilo Hospital was originally planned for completion in December, 1984. Accordingly, a request for \$2,742,413 was included in the administration's 1985 supplemental budget submission. The completion date is now six months ahead of schedule, however, and based on the supplemental request, there will be a delay in purchasing the equipment. This means that the new hospital will stand vacant while the equipment is put to bid, purchased, delivered, and installed in fiscal year 1985. The facility will stand unused, and the warranty on the facility and built-in fixtures may be affected.

This bill would allow for earlier commencement of the bidding, purchasing, delivery, and installation of the equipment needed for this facility.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1636-84, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 656-84 Ways and Means on H.B. No. 1739-84

The purpose of this bill is to allow collection agencies, which contract with the department of health to collect moneys owed for services rendered under the state comprehensive emergency medical services system, to retain a percentage of the money that they collect as their fee for services.

Presently, collection agencies which collect moneys for accounts written off as bad debts are paid by the department only after the total sum collected is deposited into the state general fund. By allowing collection agencies to retain a percentage of the money they have collected as their fee for services, this bill eliminates needless administrative costs and allows more efficient administration of the collection of emergency ambulance services accounts receivables.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1739-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 657-84 Ways and Means on H.B. No. 2184-84

The purpose of this bill is to extend the sunset provision of section 39A-52, Hawaii Revised Statutes, from June 30, 1986 to June 30, 1991.

The issuance of special purpose revenue bonds has been of substantial benefit to Hawaii's residents and not-for-profit health care institutions as it provides significant cost savings. Interest paid toward financing necessary to provide health care facilities continues to be a major factor in the cost of providing health care to the general public. The cost of such interest is far less when tax exempt bonds are issued.

Recently, bonds have frequently been issued with floating interest rates to take advantage of current low rates with an option to convert to a fixed rate. If the sunset provision is not extended, it would not be possible to convert a floating rate bond to a fixed rate and the issue would be subject to the prevailing rate.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2184-84, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 658-84 Ways and Means on H.B. No. 359

The purpose of this bill is to extend the tuition waiver program indefinitely for State residents who are members of the Hawaii National Guard or military reserves by deleting the expiration date of June 30, 1984.

Your Committee has received supportive testimony from the Hawaii National Guard, Army Reserve, the Chamber of Commerce and others. In addition to being an incentive for recruiting and retaining quality guardsmen and reservists, the tuition waiver serves as a valuable instrument in educating a group of serious and highly motivated men and women who may otherwise have had difficulty obtaining a college education.

Your Committee finds that statistically the program has met its objectives by boosting enlistment and re-enlistment participation of guardsmen and reservists, increasing morale, and simultaneously producing more competent individuals. By continuing the tuition waiver program beyond June 30, 1984, the Hawaii National Guard and the reserves can continue to offer this attractive benefit to recruit and retain qualified and motivated personnel. The benefit for the State is the maintenance of a skilled and trained, educated and motivated National Guard and reserve.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 359 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 659-84 Ways and Means on H.B. No. 1797-84

The purpose of this bill is to allow the Hawaii Housing Authority to use the fee simple residential revolving fund for lease rent renegotiation activities under chapter 519, Hawaii Revised Statutes.

Your Committee finds that current law requires the Hawaii Housing Authority or its designee to arbitrate lease rent renegotiations when the parties are unable to reach agreement; however, the law provides no source of funds for administrative costs incurred in the arbitration process. Your Committee finds that the fee simple residential revolving fund established for administrative expenses of the leasehold to fee simple conversion process may easily provide a source of administrative funds to carry out required lease rent renegotiation activities as well.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1797-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 660-84 Ways and Means on H.B. No. 851

The purpose of this bill is to allow the commission on the status of women to appoint an executive secretary without regard to chapters 76 and 77, Hawaii Revised Statutes.

Your Committee agrees that the position of executive secretary should be exempt to assure more responsiveness to the goals and objectives set by the commissioners.

Your Committee notes that several commissions such as the commission on the handicapped and executive office on aging have executive directors or secretaries exempt from chapters 76 and 77, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 851 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 661-84 (Majority) Ways and Means on H.B. No. 1718-84

The purpose of this bill is to allow the parties in the public sector collective bargaining process to extend the impasse resolution time period by mutual agreement, with the concurrence of the Hawaii public employment relations board.

Currently, the basic time frame is set by law. This bill allows flexibility in instances where additional time could prove beneficial in resolving major issues, possibly leading to a settlement.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1718-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 662-84 Ways and Means on H.B. No. 1185

The purpose of this bill is to establish an Office of the Public Guardian in the state Judiciary.

Your Committee finds that there is a serious community need to provide guardians for incapacitated people who are unable to take care of themselves and are unable to make rational and responsible decisions regarding their daily lives. These incapacitated people generally are elderly and without family or friends to act on their behalf. The Office of the Public Guardian is created in hopes of filling some of this community need.

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 force found that establishing a public guardian agency is the best method of dealing with the current problems regarding guardianships.

Your Committee supports the establishment of a public guardianship agency.

Funds for this program shall be included in the Judiciary budget. Fees received by the public guardian for services shall be deposited into the state general fund.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1185, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 663-84 Ways and Means on H.B. No. 1213

The purpose of this bill is to propose the repeal of Article VII, section 6, of the Constitution of the State of Hawaii to eliminate the requirement that excess revenues be refunded or credited to taxpayers when the general fund balance at the close of each of two successive fiscal years exceeds five per cent of the general fund revenues for each of the two fiscal years.

Your Committee heard the companion bill on this subject S.B. No. 1930-84.

Your Committee notes that this "disposition of excess revenues" provision was not included in the Taxation and Finance Committee package of the 1978 Constitutional Convention, but was a proposal made from the floor of the Convention. As this provision was voted down in the Taxation and Finance Committee, but added on the floor of the Convention, reconsideration by the electorate is appropriate.

Your Committee further notes that this provision fails to specify the amount to be credited or refunded, nor does it address disposition of credits and refunds in a projected deficit fiscal year. In view of further cutbacks of federal funds and the State's uncertain financial condition, the repeal of this provision would give the Legislature greater discretion in the retention of excess funds on a yearly basis and thus give the State more leverage in offsetting a possible fiscal deficit.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1213 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 664-84 Ways and Means on H.B. No. 1827-84

The purpose of this bill is to conform the state income tax laws to those of the Internal Revenue Code as of December 31, 1983, except for the provision of the Code taxing social security and railroad retirement benefits.

Your Committee heard the companion bill on this matter S.B. No. 1783-84.

This bill is the annual bill required from the department of taxation conforming the Hawaii law to federal law in this area. Your Committee notes that amendments by Congress to the federal Internal Revenue Code during the 1983 calendar year had little impact, and that for the first year in a long time there was no major income tax bill passed by Congress.

Your Committee agrees with the recommendation of the Department of Taxation, the Tax Foundation of Hawaii, and the Chamber of Commerce that the policy of this State is not to tax retirement benefits and that section 86, of the Internal Revenue Code, should not be made operative for the purposes of this Hawaii income tax law. Since section 86 would have first taken effect in the calendar year 1984, your Committee finds that there will be no revenue loss due to its nonadoption. Your Committee finds that there will be little revenue effect

due to adopting this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1827-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 665-84 Transportation on H.B. No. 2116-84

The purpose of this bill is to provide that employed drivers of heavy trucks and buses as defined in section 286-102(c), Hawaii Revised Statutes, who have five years of continuous experience with one employer, need only attend driver safety courses biennially.

Currently, section 286-108.5(g), Hawaii Revised Statutes, requires all drivers of vehicles listed in section 286-102(c) to attend annual driver safety courses approved by the State Director of Transportation. This bill allows experienced drivers to attend the courses every two years rather than annually.

Your Committee heard favorable testimony from the Department of Transportation and the Hawaii Transport Association. Your Committee finds that the potential danger and seriousness of accidents involving heavy trucks and buses justifies the requirement of driver safety courses as a means of reinforcing positive driving behavior and detecting potentially dangerous drivers. Your Committee further finds that it is both justifiable and financially reasonable that experienced, full-time drivers only be required to participate in biennial driver safety courses and therefore your Committee is in agreement with the intent and purpose of this bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2116-84, H.D. 1, and recommends that it be pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chang.

SCRep. 666-84 Judiciary on H.B. No. 194

The purpose of this bill is to amend section 663-3, Hawaii Revised Statutes, to allow brothers and sisters of a deceased person the right to maintain an action for damages against any person who causes the death, if there are no surviving spouse, children, father, mother, or any person dependent upon the deceased person.

Under present law, only the surviving spouse, children, father, mother, and any other person wholly or partly dependent upon the deceased person are specifically authorized to maintain such a wrongful death action.

Your Committee finds that there is no rational reason for excluding siblings from the group of listed surviving persons. In certain situations, the loss of a brother or sister may equal or transcend the loss suffered by lineal relatives or financially dependent persons. The same sense of loss of love, affection, society, companionship, comfort, consortium, protection, filial care and attention is endured by all close family members. Accordingly, your Committee concludes that brothers and sisters should be included, but only when they are the sole survivors of the deceased person.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 194, 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. 667-84 Judiciary on H.B. No. 786

The purpose of this bill is to enable the supreme court to determine the care, custody, and disposition of all judiciary records. The bill requires the judiciary to maintain a record of dispositional activity to be filed with the court in which the records originated, the office of the attorney general, the comptroller, and the public archives and exempts the judiciary from submitting to the state comptroller judiciary records for disposal.

The judiciary has testified in support of this bill stating that authority to control its own records is important since judicial records are unique and the judiciary may be better equipped than the comptroller to make decisions regarding their disposition. The measure is in accordance with a recommendation by the National Center for State Courts.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 786, 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. 668-84 Judiciary on H.B. No. 1839-84

The purpose of this bill is to 1) amend section 573-2, Hawaii Revised Statutes, to remove gender-specific language and substitute words that apply to both genders regarding a spouse's ability to contract with the other spouse and with third persons, and 2) establish two parts to chapter 572 of the Hawaii Revised Statutes.

Your Committee finds deleting gender-specific language conforms to the constitutional mandate of Article I, Section 3, requiring equality of rights for the sexes.

Your Committee heard testimony from the Committee on the Status of Women of the City and County of Honolulu in support of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1839-84, 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. 669-84 Judiciary on H.B. No. 1846-84

The purpose of this bill is 1) to amend section 510-5, Hawaii Revised Statutes, a) to remove gender-specific references to the ownership and control of community property, and make the statutory language neutral as to sex, b) delete reference to the ability of the wife to sue or be sued in her own name for a duty owed to her husband, or a duty she owes her husband, c) declare that acts committed prior to the bill's enactment will not be effected; and 2) to amend section 510-8, Hawaii Revised Statutes, to require that both spouses support one another and their family.

Your Committee received testimony from the Hawaii State Commission on the Status of Women, the City and County Committee on the Status of Women, and the Hawaii Women Lawyers in support of this bill.

Your Committee finds that this bill is in accord with Hawaii's Equal Rights Amendment, Article I, Section 3 of the Constitution of the State of Hawaii, which grants equality of rights to both sexes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1846-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 670-84 Judiciary on H.B. No. 1980-84

The purpose of this bill is to repeal the sunset provision terminating the wiretap law set forth in section 803-50 of the Hawaii Revised Statutes.

The wiretap law was enacted during the 1978 Session of the State Legislature with the "sunset" provision that the law would terminate on June 4, 1984. Such a provision was inserted "in recognition of the fact that the effectiveness and effect of wiretapping [were] not accurately known and that such a substantial invasion should not continue unless it is effective in fighting crime." (House Standing Committee Report No. 605-78, House Journal, Regular Session of 1978, p. 1661.)

Testimony from the Honolulu Prosecuting Attorney's Office indicated that, over the past six years, the wiretap law has provided law enforcement officials with an important investigative tool. During this time, these officials have been able to conduct the interception of wire communication which resulted in the successful prosecution of a murder-for-hire case, a major drug ring, organized gambling activities, and the Honolulu Police Department's "Project Hukilau".

Your Committee acknowledges the effectiveness of wiretapping by law enforcement officials in combatting crime. However, it also recognizes that Constitutional guarantees prohibit wiretapping practices which constitute a substantial invasion of one's right to privacy.

The Hawaii State Constitution, Article I, Section 6, specifically mandates that,

"The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right."

The present wiretap law is similar to the portion of the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended, relating to wire interception. However, "the bill incorporates added safeguards against unwarranted invasions of privacy. The most significant differences between the bill and the federal and most other state wire-tapping statutes are the complete prohibition of court-ordered bugging, the use of an appointed attorney to oppose the wiretap application, the limitation of wiretap orders to very serious crimes or to other specific serious offenses when the involvement of organized crime is shown, the rigorous, notice, disclosure, and destruction provisions." (House Standing Committee Report No. 605-781, House Journal, Regular Session of 1978, p. 1661.)

Your Committee reaffirms the need for these added safeguards in the present wiretap law and believes that they have been critical in ensuring the protection of the individual's right to be free from unwarranted intrusions of privacy. Upon re-examination of this wiretap law six years from its inception, your Committee is assured that this law adequately protects individual rights while allowing for the effective pursuit of criminal activity by law enforcement officials.

Although your Committee has not amended the sunset provision in section 803-50 to set another specified termination date, your Committee recommends that a study be authorized during the 1985 Legislative Session to comprehensively evaluate Hawaii's present wiretap law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1980-84, 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. 671-84 Judiciary on H.B. No. 1999-84

The purpose of this bill is to authorize the assignment of land court cases to any available circuit court judge of the First Circuit and to provide for jury trials at the trial court level.

Under the present law, one judge of the circuit court of the first circuit is designated the judge of the land court; a second judge is authorized to act as land court judge in case of disqualification, disability, or absence from the City and County of Honolulu of the first land court judge. The bill would eliminate this process and integrate the land court into the master calendar system for expediting all cases.

The bill would also streamline procedures by permitting jury trial upon demand in land court. Currently, a jury trial may be obtained only upon appeal to circuit court. This reversal of the usual appeals process adds substantial expenses to the parties and delays decision of these cases.

Finally, the bill repeals the procedure for appeal by any party aggrieved by the decision of the land court to the circuit court as provided under section 501-61 and 501-62. Section 501-63 provides for direct appeal to the supreme court from a final decree of the land court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1999-84, 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. 672-84 Human Resources on Gov. Msg. No. 263

Recommending that the Senate advise and consent to the nominations to the Advisory Commission on Manpower and Full Employment of the following:

GLENN T. MINAMI, JOHN ROGER CAMPBELL, ROBERT M. MONDEN, JEAN H. MIYAHIRA and PATRICIA K. OSGOOD, for terms ending June 30, 1987; and

ROY K. FUJIMOTO, for a term ending June 30, 1986.

Signed by all members of the Committee.

SCRep. 673-84 Human Resources on Gov. Msg. No. 172

Recommending that the Senate advise and consent to the nominations of LEONARD E. MASON, CAROL KIKKAWA-WARD and SHIZUKO MUKAIDA to the Policy Advisory Board for Elderly Affairs, for terms ending December 31, 1987.

Signed by all members of the Committee except Senator Holt.

SCRep. 674-84 Human Resources on Gov. Msg. No. 102

Recommending that the Senate advise and consent to the nominations to the Advisory Council for Children and Youth of the following:

FRED L. BLAIR, for a term ending December 31, 1987; and

GENE J. DUMARAN, for a term ending December 31, 1984.

Signed by all members of the Committee except Senator Holt.

SCRep. 675-84 Human Resources on Gov. Msg. No. 262

Recommending that the Senate advise and consent to the nomination of DAVID M. NAKADA to the Advisory Council for Children and Youth, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Holt.

SCRep. 676-84 Human Resources on Gov. Msg. No. 177

Recommending that the Senate advise and consent to the nominations of CAROLINA BOLAND and BARBARA ADAMS to the Board of Social Services and Housing, for terms ending December 31, 1987.

Signed by all members of the Committee except Senator Holt.

SCRep. 677-84 Human Resources on Gov. Msg. No. 101

Recommending that the Senate advise and consent to the nomination of JOHN R. PINGREE to the Commission on Manpower and Full Employment, for a term ending June 30, 1984.

Signed by all members of the Committee.

SCRep. 678-84 Human Resources on Gov. Msg. No. 174

Recommending that the Senate advise and consent to the nomination of THOMAS J. FOYE to the Advisory Commission on Manpower and Full Employment, for a term ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 679-84 Human Resources on Gov. Msg. No. 222

Recommending that the Senate advise and consent to the nominations to the Progressive Neighborhoods Task Force of the following:

RUBY L. HARGRAVE, for a term ending December 31, 1984; and

MARK HENRY SUIISO and LOUIS HAO, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 680-84 Human Resources on Gov. Msg. No. 175

Recommending that the Senate advise and consent to the nominations of ROLLAND SMITH, LOUISE N. KONG and PHILIP S. CHUN to the Progressive Neighborhoods Task Force, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 681-84 Human Resources on Gov. Msg. No. 211

Recommending that the Senate advise and consent to the nomination of ERNEST M.S. LOO to the Civil Service Commission, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 682-84 Human Resources on Gov. Msg. No. 170

Recommending that the Senate advise and consent to the nomination of EDWARD S. KUSHI, JR., to the Civil Service Commission, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 683-84 Human Resources on Gov. Msg. No. 173

Recommending that the Senate advise and consent to the nomination of RENTON L.K. NIP to the Hawaii Employment Relations Board, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 684-84 Human Resources on Gov. Msg. No. 221

Recommending that the Senate advise and consent to the nominations to the Board of Trustees, Hawaii Public Employees Health Fund of the following:

DAYTON M. NAKANELUA, for a term ending December 31, 1986; and

LORRAINE N. SHIMAMURA, for a term ending December 31, 1984.

Signed by all members of the Committee.

SCRep. 685-84 Human Resources on Gov. Msg. No. 176

Recommending that the Senate advise and consent to the nominations of GORDON C. MURAKAMI, THOMAS TOGUCHI and REV. CHRISTIAN TIRRE to the Board of Trustees, Hawaii Public Employees Health Fund, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 686-84 Human Resources on Gov. Msg. No. 171

Recommending that the Senate advise and consent to the nomination of MITSUYOSHI FUKUDA to the Board of Trustees of the Deferred Compensation Plan, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 687-84 Economic Development on Gov. Msg. No. 247

Recommending that the Senate advise and consent to the nominations of FRED I. KAMEMOTO and JAMES A. BROCK, D.V.M., to the Natural Area Reserves System Commission, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 688-84 Economic Development on Gov. Msg. No. 245

Recommending that the Senate advise and consent to the nomination of WARREN E. AKIONA to the Hawaii Fisheries Coordinating Council, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 689-84 Education on S.C.R. No. 11

The purpose of this resolution is to request the Legislative Auditor to conduct a financial and management audit of the State Foundation on Culture and the Arts.

The State Foundation on Culture and the Arts, established in 1965 under Act 269, Session Laws of Hawaii, 1965, is responsible for fulfilling the expanding cultural and artistic needs of Hawaii's people and to stimulate, guide, and promote culture and the arts throughout the State. The foundation supports many programs in the public schools and community such as the Artists in the School program, the Humanities Program, the Ethnic Heritage Program, the Performing Arts Program, the Media Arts Program, the Visual and Environmental Arts Program and the Literary Arts Program.

The foundation is also responsible for administering the Arts in Public Places Program which acquires and commissions art work for public buildings and spaces, administering federal monies, principally from the National Endowment for the Arts, and serving as a conduit for gifts from private foundations and individuals.

In response to concerns expressed by individuals, and the art community, an audit of the foundation was conducted by the Legislative Auditor in 1976. The audit was very critical of the foundation and its lack of program planning, policies, procedures, and involvement in the budget.

Your Committee is aware that these criticisms made eight years ago may not accurately reflect the present condition of the foundation. Your Committee is also aware that the foundation's written response of January, 1983 to the audit may also be limited since it only addresses those concerns raised in 1976.

Your Committee therefore recommends a new audit of the foundation be conducted to address those issues which are currently relevant to the foundation and to eliminate those which have been resolved since the last audit. The audit should also address the administration's interpretation of section 103-8, Hawaii Revised Statutes, which primarily reserves one per cent of state building construction costs for acquiring art work. It appears that current fiscal restraints on state programs has resulted in an inconsistency between the state's policy and the law. This problem should be studied further.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 11 and recommends its adoption.

Signed by all members of the Committee except Senators Toguchi, Cayetano and Mizuguchi.

SCRep. 690-84 Education on S.R. No. 17

The purpose of this resolution is to request the Legislative Auditor to conduct a financial and management audit of the State Foundation on Culture and the Arts.

The State Foundation on Culture and the Arts, established in 1965 under Act 269, Session Laws of Hawaii, 1965, is responsible for fulfilling the expanding cultural and artistic needs of Hawaii's people and to stimulate, guide, and promote culture and the arts throughout the State. The foundation supports many programs in the public schools and community such as the Artists in the

School program, the Humanities Program, the Ethnic Heritage Program, the Performing Arts Program, the Media Arts Program, the Visual and Environmental Arts Program and the Literary Arts Program.

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Your Committee is aware that these criticisms made eight years ago may not accurately reflect the present condition of the foundation. Your Committee is also aware that the foundation's written response of January, 1983 to the audit may also be limited since it only addresses those concerns raised in 1976.

Your Committee therefore recommends a new audit of the foundation be conducted to address those issues which are currently relevant to the foundation and to eliminate those which have been resolved since the last audit. The audit should also address the administration's interpretation of section 103-8, Hawaii Revised Statutes, which primarily reserves one per cent of state building construction costs for acquiring art work. It appears that current fiscal restraints on state programs has resulted in an inconsistency between the state's policy and the law. This problem should be studied further.

Your Committee on Education concurs with the intent and purpose of S.R. No. 17 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Toguchi, Cayetano and Mizuguchi.

SCRep. 691-84 Transportation on H.C.R. No. 29

The purpose of this concurrent resolution as received by your Committee is to adopt the State Transportation Functional Plan of October, 1982 as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978, the State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes) also referred to as The Hawaii State Plan. In accordance with the provisions of Chapter 226, Hawaii Revised Statutes, the Department of Transportation prepared the State Transportation Functional Plans designed to set forth guidelines for the delivery of services and allocation of resources by State agencies with regard to transportation. The plan was submitted to the 1983 Regular Session of the Twelfth State Legislature.

After reviewing the State Transportation Functional Plan of October, 1982 and the House amendments which have also incorporated the State Plan Policy Council's recommendations, your Committee recommends that the State Transportation Functional Plan, as modified by the amendments set forth in Exhibit A, be adopted as the State Transportation Functional Plan.

Your Committee has further amended "Exhibit A, State Transportation Functional Plan" as follows:

1. Adding a new item (3) to amend "Guide to State Programs" by deleting reference to the A-95 OMB Circular which was revoked by Presidential Executive Order 12372;
2. Changing the language of old item (4) (new item (5)) regarding "Siting of Transportation Facilities on Agricultural Lands" to clarify reasons alternatives may not be available;
3. Changing the language of old item (15) (new item (16)) at the recommendation of DOT, to delete "Plan and develop an operational statewide" and substituting "Review the feasibility of a" marine highway system because

of the department's inability to implement this in the near future; and

4. Changing the time frames to more realistic periods in old item (9) (new item 10); old item (14) (new item 15); and old item (15) (new item 16).

Your Committee also amended the concurrent resolution, as received, by:

- 1) Amending the ninth WHEREAS clause to clarify the status of the Technical Reference Document;
- 2) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and
- 3) Adding two BE IF FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Transportation Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plan as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Transportation Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Transportation Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D. 1, S.D. 1, by both Houses of the Hawaii State Legislature and H.B. No. 177, H.D. 1, S.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Transportation concurs with the intent of H.C.R. No. 29, H.D. 1, as amended herein, and recommends it be referred to the Committee on Economic Development, in the form attached hereto as H.C.R. No. 29, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 692-84 Education on H.C.R. No. 20

The purpose of this concurrent resolution is to adopt the State Education Plan as a State functional plan, to be coordinated and monitored by the Department of Education.

Out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes), also referred to as The Hawaii State Plan.

The State Education Plan is one of twelve functional plans required by the Hawaii State Planning Act and charts educational directions which will improve educational quality during the eighties. These directions are organized under topics on personal skills and knowledge, employability and economy, social and natural resources, and educational support services.

In accordance with the provisions of Chapter 226, Hawaii Revised Statutes, the Department of Education prepared the State Education Plan of October, 1982, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to education, and the plan was submitted to the Twelfth State Legislature, Regular Session of 1983. The House Committee on State General Planning and the House Committee on Education reviewed the State Education Plan and the Finding's and Recommendations of the State's Plan Policy Council on the State's Education Plan dated November 21, 1983 and made various amendments to the plan as set forth in Exhibit A attached to H.C.R. No. 20, H.D. 1.

Upon consideration, your Committee has further amended the State Education Plan by amending Exhibit A to:

- (1) Delete the word "guide" and inserting the word "guideline" in item (3), to clarify the role of the State Education Plan.
- (2) Insert a new item (4) which includes "vocational training" in the section on "In Service Training."
- (3) Insert a new item (5) which points out a potential conflict between the State Education Plan and the State Higher Education Plan with respect to the location of Kapiolani Community College, and the Hawaii Community Development Authority's Plan for Kakaako.
- (4) Insert a new item (6) to expand the areas relating to implementing a health education curriculum.
- (5) Delete the proposed new Part III, Objectives, Policies, Concerns, and Implementing Actions and amending the existing Part III, of the plan.

Your Committee has amended this concurrent resolution by specifying in the eighth "WHEREAS" clause that the technical reference document is not a reflection of legislative intent.

Your Committee is concerned with the relationship between the State Education Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. H.B. No. 177, H.D. 1, S.D. 1, presently under consideration by the Legislature, amends the Hawaii State Planning Act to clarify the status of the functional plans as guidelines. Accordingly, your Committee, has amended the concurrent resolution by specifying in the "BE IT RESOLVED" clause, and the second and third "BE IT FURTHER RESOLVED" clauses that the State Plan is to be amended by H.B. No 177, H.D. 1, S.D. 1; and by adding two new "BE IT FURTHER RESOLVED" clauses specifying that the concurrent resolution shall be effective only upon enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee on Education concurs with the intent of H.C.R. No. 20, as amended herein, and recommends that it be referred to the Committee on Economic Development in the form attached hereto as H.C.R. No. 20, H.D.1, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Cayetano, Holt and Mizuguchi.

SCRep. 693-84 Agriculture on H.C.R. No. 19

The purpose of this concurrent resolution is to adopt the State Agriculture Plan of October, 1982 as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

Your Committee finds that out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes), also referred to as The Hawaii State Plan. In accordance with the provisions of Chapter 226, the Department of Agriculture prepared the State Agriculture Plan of October, 1982, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to agriculture, and the plan was submitted to the Twelfth State Legislature, Regular Session of 1983.

After duly reviewing the State Agriculture Plan of October, 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Agriculture Plan dated November 21, 1983, and the amendments made to the plan, attached as Exhibit A, your Committee has further modified the plan by amending Exhibit A.

Your Committee has amended Exhibit A by:

- (1) Inserting a new item (7) to amend page I-2 of the plan relating to the A95 Clearinghouse process. This revision reflects the current designation of this process.
- (2) Amending item (7) to further clarify the role of the policy council.
- (3) Amending the proposed languaged in item (8)(b) by deleting the words

"is preparing" and inserting "has prepared" to reflect the current status of the feasibility study conducted pursuant to S.C.R. No. 41, H.D. 1 (1983).

(4) Amending item (8)(d) to add new language to emphasize that the primary use of agricultural lands is to be agricultural unless no suitable alternative is available.

(5) Amending the proposed language in item (11) by deleting \$100 million and inserting \$500 million to reflect the current cost estimate of the Tri-Fly Eradication Program.

(6) Amending item (18) relating to Implementing Action B(5)(c) by adding new language to clarify that unless suitable standards and criteria to conserve and protect agricultural lands are created by the Legislature, such lands should be zoned as such except where agricultural uses are not in the public interest. Language was also added that conforms to the State Plan Policy Council's recommendation that the LESA commission be requested to identify important agricultural lands.

(7) Inserted a new item (22) to amend objective F on page I-29 to delete the word "adequate" as it is ambiguous.

(8) Making various technical changes to conform to recommended drafting style which have no substantive effect.

Your Committee also amended the concurrent resolution, as received, by:

(1) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;

(2) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and

(3) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Agriculture Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Agriculture Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Agriculture Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D. 1, S.D.1, by both Houses of the Hawaii State Legislature and H.B. No. 177, H.D. 1, S.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Agriculture concurs with the intent of H.C.R. No. 19, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Economic Development, in the form attached hereto as H.C.R. No. 19, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Chang and Machida.

SCRep. 694-84 Housing and Urban Development on H.C.R. No. 28

The primary purpose of this concurrent resolution is to adopt the State Housing Plan of October, 1982, as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

Your Committee finds that out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes), also referred to as the Hawaii State

Plan. In accordance with the provisions of Chapter 226, the Hawaii Housing Authority prepared the State Housing Plan of October, 1982, designed to set forth guidelines for the delivery of services and allocation of resources by State agencies with regard to housing, and the plan was submitted to the Twelfth State Legislature, Regular Session of 1983.

After duly reviewing the State Housing Plan of October, 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Housing Plan dated November 21, 1983, and the proposed amendments set forth in Exhibit A, your committee has further modified the plan by amending Exhibit A.

Your Committee amended Exhibit A by:

(1) Amending proposed language in item (13) on page 4, to delete the words "and lower-cost construction financing." Though construction financing may be indirectly dealt with in this study, it would probably be more appropriate to address this issue elsewhere in the plan.

(2) Inserting a new item (14) amending Implementing Action A(3)(b) to further emphasize the need for innovative housing concepts being studied under Implementing Action A(3)(a), including lower-cost construction financing.

(3) Making technical changes to conform to recommended drafting style which have no substantive effect.

Your Committee amended the concurrent resolution, as received, by:

(1) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;

(2) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and

(3) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Housing Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishments of State Plan objectives.

Your Committee is concerned with the relationship between the State Housing Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Housing Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D. 1, S.D. 1, by both Houses of the Hawaii State Legislature and H.B. No. 177, H.D. 1, S.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Housing and Urban Development concurs with the intent of H.C.R. No. 28, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Economic Development in the form attached hereto as H.C.R. No. 28, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Holt.

SCRep. 695-84 Higher Education on H.C.R. No. 30

The purpose of this Concurrent Resolution is to adopt the State Higher Education Plan of October, 1982 as a State functional plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

Your Committee finds that out of concern over the State's future growth and direction, the 1978 State Legislature adopted the Hawaii State Planning Act (Chapter 226, Hawaii Revised Statutes), also referred to as The Hawaii State Plan. In accordance with the provisions of the Hawaii State Planning Act, the

University of Hawaii prepared the State Higher Education Plan of October, 1982, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to higher education, and the plan was submitted to the Twelfth Legislature, Regular Session of 1983.

After duly reviewing the State Higher Education Plan of October, 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Higher Education Plan dated November 21, 1983, and the amendments made to the plan, attached as Exhibit A, your Committee has further modified the plan by amending Exhibit A.

Your Committee has amended Exhibit A by:

- (1) Inserting a new item (2) to amend Part II.A "Purpose" to clarify Hawaii's role in tourism education.
- (2) Inserting a new item (3) to amend Part II.A "Purpose" to provide greater depth in multicultural education and to delete the requirement of speaking one or more Asian/Pacific languages as a multicultural curriculum may encompass additional activities and skills.
- (3) Inserting a new item (5) to amend Part II.B to correct a typographical error.
- (4) Inserting a new item (6) to amend Part II.B to make various changes for the purpose of clarity.
- (5) Inserting a new item (9) to amend Part III.B. to clarify that the university referred to is the University of Hawaii.
- (6) Inserting a new item (10) to amend Implementing Action B(2)(d) by deleting agriculture as an emphasis for research and public service activities as this could be limiting.
- (7) Inserting a new item (13) to amend Part III.C. "Objective" to delete focus on handicapped individuals and to broaden language to remove barriers and assist any eligible individual to gain access to post-secondary educational opportunities.
- (8) Inserting a new item (14) to amend Part III.E. "Objective" to add new language that encourages postsecondary educational institutions to assess their organizational structure and management policies to achieve greater efficiency and effectiveness.
- (9) Amending item (7) to add revised time frames for Implementing Actions B(3)(b) and B(3)(d).

Your Committee also amended the Concurrent Resolution, as received, by:

- (1) Amending the seventh WHEREAS clause to clarify the status of the Technical Reference Document;
- (2) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, The Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1; and
- (3) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Higher Education Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Higher Education Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Higher Education Functional Plan as a

State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D. 1, S.D. 1, by both Houses of the Hawaii State Legislature and H.B. No. 177, H.D. 1, S.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Higher Education concurs with the intent of H.C.R. No. 30, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Economic Development in the form attached hereto as H.C.R. No. 30, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 696-84 Higher Education on S.R. No. 37

The purpose of this resolution is to request the Honolulu Community College to implement a pilot program on non-credit courses for small business and report to the Legislature.

Currently, there is no such course program. This resolution will request that the Honolulu Community College help meet the needs of the small business community by establishing this pilot program.

Your Committee heard favorable testimony from the Chancellor for Community Colleges as to the intent of this resolution. The Chancellor suggested minor amendments to the resolution as follows: 1) In the BE IT RESOLVED clause, line 3, add "proposed" before "pilot program", and 2) In the BE IT RESOLVED clause, last line, delete "1985" and add "1986".

Your Committee agrees with the intent of the proposed amendment number 1. However, your Committee feels that a preliminary report should be submitted to the Legislature before the 1985 Legislative Session and that the final report shall be submitted before the 1986 Legislative Session, and has amended the resolution to reflect this.

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

Signed by all members of the Committee.

SCRep. 697-84 Judiciary on H.B. No. 2332-84

The purpose of this bill is to amend Section 134-6 of the Hawaii Revised Statutes by: 1) prohibiting persons from carrying loaded firearms and requiring persons to use enclosed containers when carrying unloaded firearms, 2) defining "enclosed container" as a rigidly constructed receptacle or a commercially manufactured gun case or its equivalent that completely encloses the firearm, 3) providing that a violation of this section by carrying or possessing an unloaded firearm, other than a pistol or revolver, is a misdemeanor, 4) providing that a violation of this section by carrying or possessing a loaded firearm, or by carrying or possessing a pistol or revolver without a permit pursuant to Section 134-9 is a class C felony.

Under the present law, it is lawful to carry firearms, whether loaded or unloaded, in a wrapper or other suitable container from the place of purchase to the purchaser's residence, place of business, or place of sojourn, or between these places and a place of repair or a target range, except that a permit must be issued to carry pistols or revolvers. The proposed amendment allowing persons to carry only unloaded firearms in certain instances reflects a concern for public safety, e.g., to minimize the chances of injury where a loaded weapon might accidentally discharge or to minimize the opportunities for spontaneous criminal activity.

Further, testimony from the Honolulu Prosecuting Attorney's Office indicated that since the present terms "wrapper or suitable container" are not defined, there has been at least one case where an individual carrying a shotgun in a thick plastic bag was found not guilty of violating Section 134-6. The term "enclosed container" (defined as a rigidly constructed receptacle or a commercially manufactured gun case or its equivalent that completely encloses the firearm) more accurately reflects the legislative intent that firearm containers adequately secure the firearms and clarifies any ambiguity as to what

constitutes a "wrapper" or "suitable container".

Presently, a violation of Section 134-6, Hawaii Revised Statutes, constitutes a misdemeanor. The penalty is the same where a violation is committed involving an unloaded firearm (other than a pistol or revolver).

The bill increases the penalty to a class C felony where a violation occurs with a loaded firearm, other than a pistol or revolver, as it was felt that the latter offense poses a greater threat to public safety.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2332-84, 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. 698-84 Judiciary on H.B. No. 1678-84

The purpose of this bill is to correct technical errors appearing in various portions of the Hawaii Revised Statutes (hereafter "H.R.S.") which have resulted in inconsistencies, redundancies, unnecessary repetition, and lack of clarity.

This bill proposes the amendment of thirteen separate sections of the H.R.S. The proposals originate from the legislative directive contained in section 23G-20, H.R.S., which mandates the revisor of statutes to conduct a continual review of the laws of the State for the purpose of removing inconsistencies, redundancies, unnecessary repetition, and to improve their clarity.

Section 1 amends section 103-55, H.R.S., by changing a reference to section 76-16(16) to 76-16(15). Act 199, Session Laws of Hawaii 1977 (hereafter "S.L.H."), section 1, amended section 76-16, H.R.S., by deleting former paragraph (13) and renumbering the remaining paragraphs. Section 103-55, H.R.S., which contains a reference to specific paragraphs of section 76-16 has not been amended to reflect the changes in paragraph numbers. To correct this apparent oversight, section 103-55 should be amended so that the reference is to paragraph (15) of section 76-16 rather than to paragraph (16).

The section also has been divided into subsections to facilitate future amendment.

Section 2 makes a nonsubstantive grammatical change in section 188-29(a), H.R.S. Act 87, S.L.H. 1983, section 2, divided section 188-29, H.R.S., into subsections and added paragraph (7) to the newly designated subsection (a). Due to an apparent oversight, the word "and" used to connect the next to the last and the last paragraphs was not deleted from paragraph (5) nor was paragraph (6) amended to conform to the style used in groups of paragraphs. Section 188-29(a) should be amended to incorporate these stylistic changes.

Section 3 changes a reference to "subchapter S corporation" in section 237-34(b), H.R.S., by deleting the word "subchapter". Section 237-34(b), H.R.S., should be amended by deleting "subchapter" from the phrase "subchapter S corporation" to conform to the terminology used in the Internal Revenue Code which was adopted by Act 88, S.L.H. 1983, in section 235-2.3(1), H.R.S.

Section 4 corrects internal references within section 269-1, H.R.S. Act 59, S.L.H. 1974, section 2, amended the definition of "public utility" in section 269-1, H.R.S., by inserting a new paragraph (2) and renumbering the remaining paragraphs. As a result of an apparent oversight a subsequent reference in the definition to paragraphs (3) and (4) was not amended to reflect this renumbering. An analysis of the legislative history of this section reveals that the current definition of public utility was enacted by Act 366, S.L.H. 1949, and contained in paragraphs (3) and (4) the provisions now designated as paragraphs (4) and (5). Section 269-1 should be amended by amending the definition of "public utility" to correct these references. The section also has been revised by blocking the numbered paragraphs to improve readability.

Section 5 substitutes the words "financial assistance" for "money payments" in section 346-29, H.R.S. Act 52, S.L.H. 1979, section 5, amended chapter 346,

H.R.S., by substituting the words "financial assistance" for the words "money payments". Through an apparent oversight, the phrase "money payments" remained in section 346-29(3), H.R.S. Act 216, S.L.H. 1982, amended section 346-29 by substituting the appropriate phrase in one instance but failing to correct the section entirely. Section 346-29 should be amended to remove the only remaining "money payments" and to make the proper substitution.

Section 6 updates an obsolete reference regarding criminal contempt, and deletes the word "deputy" as the term modifies bank examiner in section 409-28, H.R.S. Section 409-28, H.R.S., contains an obsolete reference to chapter 729 which was repealed by Act 9, S.L.H. 1972. Under the Hawaii Penal Code, enacted by Act 9, S.L.H. 1972, criminal contempt of court is codified as section 710-1077, H.R.S. Section 409-28 should be amended to incorporate the correct reference to the statute governing contempt of court as was done in Act 147, S.L.H. 1982, section 24, which corrected section 453-11, H.R.S. The section should be further amended to reflect the amendments made by Act 203, S.L.H. 1982, section 11 deleting the word "deputy" when at certain times it modifies bank examiner.

Section 7 similarly updates an obsolete reference regarding criminal contempt, this time in section 442-10, H.R.S. Section 442-10 has also been divided into subsections to facilitate future amendment.

Section 8 amends section 444-25.5 by correcting obsolete references within that section. Act 183, S.L.H. 1975, section 4, enacted section 444-25.5, H.R.S., which included five paragraphs identified by letters in parenthesis. When the section was incorporated into the 1975 supplement, the revisor of statutes changed the paragraph designations to numerals in parenthesis. Due to an apparent clerical error, the references in paragraph (3) to the two preceding paragraphs remained as (a) and (b). Section 444-25.5 should be amended so that paragraph (3) will correctly refer to paragraphs (1) and (2).

Section 9 updates an obsolete reference to criminal contempt in section 460-14, H.R.S. This is accomplished in the same manner and for the same reasons as the changes made to other H.R.S. sections by sections 6 and 7 of this bill. Section 460-14 is also divided into subsections to facilitate future amendment.

Section 10 substitutes "license" for "certificate" in section 465-13, H.R.S. Act 95, S.L.H. 1983, amended chapter 465, H.R.S., by replacing the word "certification" and variations of it with the word "license" and variations of it. Due to an apparent oversight, one such substitution was not made in section 465-13. Section 465-13 should be amended so that consistent language is used throughout the chapter.

Section 11 updates an obsolete reference regarding criminal contempt in section 554-4, H.R.S. This is accomplished in the same manner and for the same reasons as the changes made to other H.R.S. sections by sections 6, 7, and 9 of this bill.

Section 12 amends the title of chapter 846. Act 78, S.L.H. 1983, amended chapter 846, H.R.S., by amending existing sections of chapter 846 and designating them "Part I. Data Center" and by adding several new sections which were designated as "Part II. Civil Identification". The title of chapter 846 should be amended to reflect the added scope of the chapter.

Section 13 amends section 846-32, H.R.S., by deleting brackets around the word "shall". Section 846-32, H.R.S., requires that any legal change of the name or citizenship status of a registrant who has received a certificate of identification be reported to the department of the attorney general within thirty days of the change. This provision was initially added in Senate Bill No. 1092, S.D. 1, H.D. 1, Twelfth Legislature, 1983, State of Hawaii, which stated that "the registrant or other person in charge of the registrant (in the case of a minor or incompetent person), within thirty days after the change of name or citizenship status, shall report the change...." Through an apparent clerical error, the word "shall" was deleted from the bill when it was typed as H.D. 2.

The revisor of statutes, pursuant to statutory authority, has remedied this apparent oversight and made this section grammatically correct by reinserting the word "shall". The revisor has indicated the change by the use of brackets and a revision note. Section 846-32 should be amended to enact officially this

correction. The section should also be divided into subsections to facilitate future amendment.

This bill also makes technical and nonsubstantive amendments throughout the respective sections.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1678-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 699-84 Judiciary on Gov. Msg. No. 103

Recommending that the Senate advise and consent to the nomination of MARC V. OLEY to the Hawaii Paroling Authority, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Hagino.

SCRep. 700-84 Judiciary on Gov. Msg. No. 179

Recommending that the Senate advise and consent to the nomination of MICHAEL M.C. YEE to the Board of Registration, Island of Oahu, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Hagino.

SCRep. 701-84 Judiciary on Gov. Msg. No. 180

Recommending that the Senate advise and consent to the nomination of LEONILDA T. CAIRES to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Hagino.

SCRep. 702-84 Judiciary on Gov. Msg. No. 181

Recommending that the Senate advise and consent to the nomination of EVELYN T. BRAND to the Board of Registration, Kauai and Niihau, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Hagino.

SCRep. 703-84 Judiciary on Gov. Msg. No. 212

Recommending that the Senate advise and consent to the nomination of JOSEPH CARDOZA, Esq., to the Juvenile Justice Interagency Board, for a term ending December 31, 1986.

Signed by all members of the Committee except Senator Hagino.

SCRep. 704-84 Judiciary on Gov. Msg. No. 297

Recommending that the Senate advise and consent to the nomination of WARREN HISASHI NISHIMURA to the Board of Registration, Island of Hawaii, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Hagino.

SCRep. 705-84 Judiciary on Gov. Msg. No. 178

Recommending that the Senate advise and consent to the nominations to the Juvenile Justice Interagency Board of the following:

DOUGLAS G. GIBB, for a term ending December 31, 1987; and

MARY LOU BARELA, for a term ending December 31, 1986.

Signed by all members of the Committee except Senators Carpenter and Hagino.

SCRep. 706-84 Judiciary on Gov. Msg. No. 182

Recommending that the Senate advise and consent to the nominations HIROSHI SAKAI and ROBERT S. TOYOFUKU to the Commission to Promote Uniform Legislation, for terms ending December 31, 1987.

Signed by all members of the Committee except Senators Carpenter and Hagino.

SCRep. 707-84 Tourism on S.R. No. 59

The purpose of this resolution is to request that the Board of Land and Natural Resources place a two year moratorium from testing, development, and construction in the Ahupua'a of Kahana which may conflict with the development of a cultural living park.

In the late 1960's, the Ahupua'a of Kahana was purchased by the State of Hawaii for the purpose of creating a state park. Since the purchase, the legislature has on several occasions expressed its intent that the Ahupua'a of Kahana be developed as a cultural living park. In addition, both the State Administration and the Board of Land and Natural Resources have adopted the concept of a cultural living park for the Ahupua'a of Kahana.

The current plan for the Ahupua'a is based on the 1978 Revised Environmental Impact Statement for the Kahana Valley State Park which was formally accepted by the State Administration and the Board of Land and Natural Resources. The Statement mentions that "the boundaries of the park coincide with the natural physiographic barriers that not only buffer Kahana from intrusions but also neatly define a watershed ecosystem....Therefore, the management of this resource is an important element of the overall scheme of the park's development".

The Board of Water Supply of the City and County of Honolulu has separately established water development plans for Kahana Valley such as well fields and, more immediately, a six million gallon reservoir for which a Conservation District Use Permit has been sought from the Department of Land and Natural Resources.

The Army Corps of Engineers, at the request of the State Department of Transportation, is also conducting a survey for a refuge harbor in Kahana Bay.

The plans and activities of the Board of Water Supply and the Army Corps of Engineers may conflict with and intrude on the development of the Ahupua'a of Kahana as a cultural living park.

Your Committee heard testimonies from the Department of Land and Natural Resources (DLNR), Board of Water Supply (BWS), Office on Hawaiian Affairs (OHA), Council of Hawaiian Organizations, Ad Hoc Kahana Advisory Board, Residents of Kahana Valley, and other concerned private citizens.

Mr. Susumu Ono, Chairperson of DLNR testified on the resolution and expressed the position that the principal use of the Valley should remain in recreational use as originally intended. Any other use of the Valley should be allowed only if the impact and intrusion of the project proposal does not unduly compromise the intended recreational use of the Valley. In planning for the development of Kahana Valley, DLNR's course of action will be guided by the Legislature.

Mr. Leroy Rathburn, Assistant Manager of the Board of Water Supply, indicated that the Board has agreed to defer their plan to drill wells for the development of the water resources in the Valley until plans for development of the park are finalized. Mr Rathburn further indicated that the proposed construction of the six-million gallon reservoir in Kahana Valley is urgently needed to stabilize and improve the operation of the Windward Oahu water system. Presently, water is pumped from sources at Punaluu all the way to Kailua without the benefit of a reservoir to stabilize system pressures and to provide adequate storage and operational flexibility.

The Board of Water Supply has investigated other possible sites for construction of the reservoir outside of Kahana Valley. Because of steep and rugged terrain, they claim that construction would require excessively

extensive, unsightly and expensive excavation. Kahana Valley was ultimately selected because there are no other feasible sites in the area on which to locate the reservoir.

Mr. Hayden Burgess, representative of the Office of Hawaiian Affairs, testified in support of the resolution. He believed that the reservoir and related infrastructure will scar the natural environment of the Valley to the probable detriment of the environmental education and recreational activities envisioned in the park plan. He also questioned the Department of Transportation's plan for a refuge harbor. Since the incorporation of an entire Ahupua'a into a State Park is unique in the realm of park development, any non-park development plan for Kahana Bay should be scrutinized for its compatibility with a cultural living park.

Mr. Gard Kealoha, Secretary of the Council of Hawaiian Organizations, also testified in support of the resolution. He expressed needed support for the establishment of the Kahana Valley Advisory Board for park planning and development, and the need for a complete moratorium on the development and planning of any projects in the Kahana area until they are sanctioned by the Advisory Board as well as the Department of Land and Natural Resources.

Concerns from many other individuals who presented favorable testimony included the need for a moratorium, an Advisory Board, and Kahana Valley as an educational resource.

Your Committee finds that there is a need for the Board of Land and Natural Resources to place an immediate moratorium on any testing, development, and construction in the Ahupua'a of Kahana which may conflict with and intrude on the development of the cultural living park.

Your Committee has amended the resolution to:

1. Limit the length of the proposed moratorium to two years so as not to place an indefinite and burdensome restriction on non-park developments in Kahana Valley and Kahana Bay;

2. Delete "planning" from the proposed two-year moratorium so as to permit non-park developmental planning but not allow permit-applications or any other form of actual development work to proceed; and

3. Clarify that the two-year moratorium is on "testing, development, and construction in the Ahupua'a of Kahana".

4. Add a new BE IT FURTHER RESOLVED clause which provides language to enable the U.S. Army Corps of Engineers to continue their studies related to the proposed refuge harbor at Kahana Bay.

The proposed amendments affect the third and fourth paragraphs in page 2 as follows:

"BE IT RESOLVED by the Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, that the Board of Land and Natural Resources be requested to place an immediate two year moratorium on any [planning,] testing, [and] development, and construction [including the removal or alteration, of any resources] in the Ahupua'a of Kahana which may conflict with and intrude on the development of the cultural living park; and

BE IT FURTHER RESOLVED that the moratorium shall remain in effect until such time that the Board of Land and Natural Resources with the advice of the Kahana Valley Advisory Board determines that the park's development has progressed to a point where its needs for the resources of the Ahupua'a of Kahana are more clearly defined and unrelated development proposals can be more adequately evaluated, provided that such moratorium, in any event, shall expire two years after the adoption of this resolution."

Your Committee recognizes that the primary intent of Kahana Valley is for recreational use. Your Committee further recognizes that there is potential in Kahana Valley to serve other, subordinate, public purposes. Following the completion of the park plans, other public purpose activities may be permitted by the Board of Land and Natural Resources, provided that such activities do not conflict with park plans.

Your Committee on Tourism concurs with the intent of S.R. No. 59, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 59, S.D. 1.

Signed by all members of the Committee.

SCRep. 708-84 Tourism on S.C.R. No. 51

The purpose of this concurrent resolution is to request that the Board of Land and Natural Resources place a two year moratorium from testing, development, and construction in the Ahupua'a of Kahana which may conflict with the development of a cultural living park.

In the late 1960's, the Ahupua'a of Kahana was purchased by the State of Hawaii for the purpose of creating a state park. Since the purchase, the legislature has on several occasions expressed its intent that the Ahupua'a of Kahana be developed as a cultural living park. In addition, both the State Administration and the Board of Land and Natural Resources have adopted the concept of a cultural living park for the Ahupua'a of Kahana.

The current plan for the Ahupua'a is based on the 1978 Revised Environmental Impact Statement for the Kahana Valley State Park which was formally accepted by the State Administration and the Board of Land and Natural Resources. The Statement mentions that "the boundaries of the park coincide with the natural physiographic barriers that not only buffer Kahana from intrusions but also neatly define a watershed ecosystem....Therefore, the management of this resource is an important element of the overall scheme of the park's development".

The Board of Water Supply of the City and County of Honolulu has separately established water development plans for Kahana Valley such as well fields and, more immediately, a six million gallon reservoir for which a Conservation District Use Permit has been sought from the Department of Land and Natural Resources.

The Army Corps of Engineers, at the request of the State Department of Transportation, is also conducting a survey for a refuge harbor in Kahana Bay.

The plans and activities of the Board of Water Supply and the Army Corps of Engineers may conflict with and intrude on the development of the Ahupua'a of Kahana as a cultural living park.

Your Committee heard testimonies from the Department of Land and Natural Resources (DLNR), Board of Water Supply (BWS), Office on Hawaiian Affairs (OHA), Council of Hawaiian Organizations, Ad Hoc Kahana Advisory Board, Residents of Kahana Valley, and other concerned private citizens.

Mr. Susumu Ono, Chairperson of DLNR testified on the concurrent resolution and expressed the position that the principal use of the Valley should remain in recreational use as originally intended. Any other use of the Valley should be allowed only if the impact and intrusion of the project proposal does not unduly compromise the intended recreational use of the Valley. In planning for the development of Kahana Valley, DLNR's course of action will be guided by the Legislature.

Mr. Leroy Rathburn, Assistant Manager of the Board of Water Supply, indicated that the Board has agreed to defer their plan to drill wells for the development of the water resources in the Valley until plans for development of the park are finalized. Mr Rathburn further indicated that the proposed construction of the six-million gallon reservoir in Kahana Valley is urgently needed to stabilize and improve the operation of the Windward Oahu water system. Presently, water is pumped from sources at Punaluu all the way to Kailua without the benefit of a reservoir to stabilize system pressures and to provide adequate storage and operational flexibility.

The Board of Water Supply has investigated other possible sites for construction of the reservoir outside of Kahana Valley. Because of steep and rugged terrain, they claim that construction would require excessively extensive, unsightly and expensive excavation. Kahana Valley was ultimately selected because there are no other feasible sites in the area on which to locate the reservoir.

Mr. Hayden Burgess, representative of the Office of Hawaiian Affairs, testified in support of the concurrent resolution. He believed that the reservoir and related infrastructure will scar the natural environment of the Valley to the probable detriment of the environmental education and recreational activities envisioned in the park plan. He also questioned the Department of Transportation's plan for a refuge harbor. Since the incorporation of an entire Ahupua'a into a State Park is unique in the realm of park development, any non-park development plan for Kahana Bay should be scrutinized for its compatibility with a cultural living park.

Mr. Gard Kealoha, Secretary of the Council of Hawaiian Organizations, also testified in support of the concurrent resolution. He expressed needed support for the establishment of the Kahana Valley Advisory Board for park planning and development, and the need for a complete moratorium on the development and planning of any projects in the Kahana area until they are sanctioned by the Advisory Board as well as the Department of Land and Natural Resources.

Concerns from many other individuals who presented favorable testimony included the need for a moratorium, an Advisory Board, and Kahana Valley as an educational resource.

Your Committee finds that there is a need for the Board of Land and Natural Resources to place an immediate moratorium on any testing, development, and construction in the Ahupua'a of Kahana which may conflict with and intrude on the development of the cultural living park.

Your Committee has amended the concurrent resolution to:

1. Limit the length of the proposed moratorium to two years so as not to place an indefinite and burdensome restriction on non-park developments in Kahana Valley and Kahana Bay;
2. Delete "planning" from the proposed two-year moratorium so as to permit non-park developmental planning but not allow permit-applications or any other form of actual development work to proceed; and
3. Clarify that the two-year moratorium is on "testing, development, and construction in the Ahupua'a of Kahana".
4. Add a new BE IT FURTHER RESOLVED clause which provides language to enable the U.S. Army Corps of Engineers to continue their studies related to the proposed refuge harbor at Kahana Bay.

The proposed amendments affect the third and fourth paragraphs in page 2 as follows:

"BE IT RESOLVED by the Senate of the Twelfth Legislature of the State of Hawaii, Regular Session of 1984, that the Board of Land and Natural Resources be requested to place an immediate two year moratorium on any [planning,] testing, [and] development, and construction [including the removal or alteration, of any resources] in the Ahupua'a of Kahana which may conflict with and intrude on the development of the cultural living park; and

BE IT FURTHER RESOLVED that the moratorium shall remain in effect until such time that the Board of Land and Natural Resources with the advice of the Kahana Valley Advisory Board determines that the park's development has progressed to a point where its needs for the resources of the Ahupua'a of Kahana are more clearly defined and unrelated development proposals can be more adequately evaluated, provided that such moratorium, in any event, shall expire two years after the adoption of this concurrent resolution."

Your Committee recognizes that the primary intent of Kahana Valley is for recreational use. Your Committee further recognizes that there is potential in Kahana Valley to serve other, subordinate, public purposes. Following the completion of the park plans, other public purpose activities may be permitted by the Board of Land and Natural Resources, provided that such activities do not conflict with park plans.

Your Committee on Tourism concurs with the intent of S.C.R. No. 51, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 51, S.D. 1.

Signed by all members of the Committee.

SCRep. 709-84 Human Resources on S.C.R. No. 73

The purpose of this concurrent resolution is to request the United States Congress to permit Hawaii to enact amendments to its Prepaid Health Care Act without the restrictions of Section 514(b) of the federal Employee Retirement Income Security Act (ERISA) enacted on January 14, 1983.

The Hawaii Prepaid Health Care Act became effective June 12, 1974 and ERISA became effective September 2, 1974. In October 1981 the U.S. Supreme Court ruled that the Prepaid Health Care Act was unenforceable under the ERISA preemptive powers. On January 14, 1983 President Reagan signed an amendment to section 514(b) exempting the Prepaid Health Care Act from preemption by ERISA. However, this exemption was granted on condition that no substantive amendments to the Prepaid Health Care Act could be enacted by the State Legislature after September 2, 1974. Any amendments to the Hawaii Prepaid Health Care Act enacted after September 2, 1974 must be for administrative purposes only. Therefore, Act 25, Session Laws of Hawaii 1976 (substance abuse benefits), a substantive amendment, was invalidated. Section 514(b) also precludes the State from making other substantive changes to the law but allows the U.S. Secretary of Labor to enter into cooperative arrangements with the State to assist and effectuate policies and provisions of the Act which are superseded. The Department of Labor and Industrial Relations is currently in communication with the Secretary.

Your Committee received testimony in support of this Concurrent Resolution from the Department of Labor and Industrial Relations and the Hawaii Prepaid Health Care Advisory Council and finds that the health care industry needs more flexibility to develop imaginative cost-containment plans and programs. However, Hawaii's Prepaid Health Care Law in its present form does not permit the development and marketing of health care plans that vary significantly from the base plans specified in the law. In addition, employers need relief from the ever increasing premium costs of health plans which they are required to pay on behalf of their employees, and they need to be given a voice in recommending corrective or supplementary legislation. The existing law is causing financial difficulties for many employers in the State and does not allow for development of medical benefits necessary today. Your Committee finds that it is in the public interest to resolve this situation so that the original purpose of the law may be preserved.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 73 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 710-84 Human Resources on H.B. No. 1466

The purpose of this bill is to raise the ceiling on wages, vacation or sick leave pay payable to relatives of deceased employees.

The law presently sets the maximum amount payable by an employer to the surviving spouse or adult child of a deceased employee at \$1000. This bill raises the limit to \$2000.

Your Committee heard testimony from the Department of Labor and Industrial Relations and the ILWU Local 142, and finds that the \$1000 ceiling was originally set in 1967. Since then wages and benefits have risen drastically, along with the cost of living and funeral and administrative expenses, and therefore your Committee finds that it is appropriate and in the public interest to raise the maximum wages, vacation or sick leave pay payable to a surviving spouse or adult child as provided in this measure.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1466 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 711-84 Human Resources on H.B. No. 1851-84

The purpose of this bill is to delete specific references to gender from sections 76-1(1) and 76-18, Hawaii Revised Statutes.

In its original form, this bill also deleted the variable of gender as a basis for determining an applicant's eligibility for civil service employment. However, your Committee concurs with the finding of the House Judiciary Committee that the gender variable is one of the protected categories in civil service employment as provided in Section 76-1(1), Hawaii Revised Statutes, and accordingly has not disturbed the amended version of this bill as received by your Committee.

Your Committee heard testimony from the Committee on the Status of Women and the Department of Personnel Services and finds that in its present form this bill is a housekeeping measure which conforms the statutory language of sections 76-1(1) and 76-18, Hawaii Revised Statutes, to the spirit of Section 3, Article I of the Hawaii State Constitution which mandates equality of rights under the law regardless of sex. This bill makes no substantial changes to the abovementioned sections, but rather replaces masculine references with words which apply to both genders, where both genders are contextually implied.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1851-84, 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. 712-84 Economic Development on H.B. No. 1754-84

The purpose of this bill is to restore language to section 171-6, Hawaii Revised Statutes, relating to the powers of the Board of Land and Natural Resources (BLNR), that was inadvertently deleted by Act 170, Session Laws of Hawaii, Regular Session of 1983.

The bill also enables the BLNR to set, charge and collect reasonable fines for violations of the provisions of Chapter 171, Hawaii Revised Statutes, or any rule promulgated thereunder.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1754-84, 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. 713-84 Economic Development on H.B. No. 2568-84

The purpose of this bill is to include the term "corporation" in the definition of "qualified person", and thereby providing that corporations may qualify to enter into project agreements with the High Technology Development Corporation (HTDC).

In earlier drafts of legislation which created the HTDC, corporations were included among those defined as qualified persons but the term "corporation" was inadvertently omitted from the final draft of the statute. Your Committee finds that the statute's exclusion of corporations from those qualified to enter project agreements with the HTDC is contrary to the State's interest in encouraging development of high technology.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2568-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 714-84 Economic Development on H.B. No. 1755-84

The purpose of this bill is to enable the Board of Land and Natural Resources (BLNR), through its chairman, to prevent illegal activities on public lands.

The Department of Land and Natural Resources (Department) is responsible for the management of State recreation resources in the mountain and shoreline areas. Recently, there have been numerous public complaints about the safety

of these public areas because of the existence of illegal activities, such as the cultivation of marijuana.

The law presently authorizes the BLNR to "prevent unlawful occupation of or trespassing on public lands." Under this provision, the Department has cleared public lands occupied by unauthorized persons. It is the intent of this bill to further clarify the powers of the BLNR to assist in more effective prosecution of those who are illegally using public lands. This bill provides for the prevention of "illegal activities" on public lands as a duty of the BLNR.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1755-84, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 715-84 (Joint) Consumer Protection and Commerce and Economic Development on H.B. No. 1984-84

The purpose of this bill is to encourage the establishment of international banking facilities (IBFs) in the State of Hawaii by permitting "outside" institutions (Edge and Agreement Corporations, and U.S. branches or agencies of foreign banks) to establish IBFs in the State.

Your Committees heard favorable testimony from the Bank Examination Division of the Department of Commerce and Consumer Affairs and Bank of Hawaii.

Your Committees find that the technical revisions set forth in the bill are necessary to bring the State law into conformity with Regulation D of the Federal Reserve Board (12 C.F.R. Part 204), if the State is to truly encourage the creation of IBFs in Hawaii. The current law appears to authorize only state-chartered banks and savings and loan associations to create IBF's.

By expanding the definition of eligible depository institutions beyond those based in the State, Hawaii will be able to attract additional international banking facilities which will serve to better identify Hawaii as an international banking center.

Your Committees on Consumer Protection and Commerce and Economic Development are in accord with the intent and purpose of H.B. No. 1984-84, 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.

SCRep. 716-84 Consumer Protection and Commerce on H.B. No. 1764-84

The purpose of this bill is to exempt any security for which a registration statement has been filed with the Securities and Exchange Commission (SEC) under the Federal Securities Act of 1933 from registration with the State Commissioner of Securities and to repeal the existing filing requirements for such securities.

It is the intent of this bill to reduce the regulatory burden on the securities industry and the work load of the Department of Commerce and Consumer Affairs (DCCA). The DCCA presented testimony that under federal law, registration of a security is scrutinized by the SEC and includes safeguards, such as sales through registered broker/dealers, underwriting of the issue by an investment banking or broker/dealer firm, and coverage by the Securities Investor Protection Corporation. Therefore, parallel registration with the State is redundant and unnecessary.

By eliminating the task of keeping and maintaining registration records the Commissioner of Securities could devote more time to consumer problems and conduct a faster review of franchise registrations. Although the process of securities registration will be more efficient the DCCA will still have the responsibility and authority to investigate and prosecute any violation involving securities fraud or misrepresentation under section 485-25, Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the

intent and purpose of H.B. No. 1764-84, 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 Soares.

SCRep. 717-84 Consumer Protection and Commerce on H.B. No. 1765-84

The purpose of this bill is to clarify which licensees must pay into the compliance resolution fund, and to insure that errant licensees or unlicensed entities pay into the fund any fines or penalties assessed against them.

Presently, all licensees of the Professional and Vocational Licensing Division must pay a \$10 annual assessment into the compliance resolution fund. The Department of Commerce and Consumer Affairs (DCCA) interprets the word "license" to include permits, certificates, and registrations issued through the licensing process. This bill conforms the statutory language of section 26-9 (m), Hawaii Revised Statutes, with the DCCA's usage.

Chapter 514E, "time sharing", section 485-6(15), "private offerings of securities" and section 485-14, "securities salesmen and dealers" require an inordinate amount of departmental resources to monitor. Presently, other departmental resources must be sought to pursue violations of these sections. Assessing a compliance resolution fund fee from these licensees will insure that adequate funds are available to monitor these cases. In addition, fines and penalties collected as a result of prosecuting a case shall be paid into the compliance resolution fund which will maintain a self-funding level for investigators, attorneys, and other personnel necessary to prosecute consumer complaints.

Your Committee heard favorable testimony from the DCCA which stated that the DCCA's compliance resolution fund was created in 1982 to address the imminent collapse of the DCCA consumer complaints and enforcement process. A special fund was created to hire investigators, attorneys, and clerical personnel to expeditiously receive, investigate, and prosecute consumer complaints. The temporary positions created are funded solely from the annual assessment paid by licensees. Since 1982, the personnel hired through the fund have reduced the backlog of disciplinary cases from four to one and a half years.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1765-84, 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 Soares.

SCRep. 718-84 Consumer Protection and Commerce on H.B. No. 1766-84

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs to issue citations to unlicensed contractors.

Presently, a civil complaint must be filed in court in order to obtain an injunction to stop or prevent construction activities by an unlicensed contractor. This procedure may take months because a number of unlicensed contractors do not maintain a permanent address and cannot be served with the complaint or order for injunction. This delay in obtaining and effectuating a court order allows unlicensed activities to continue.

Your committee received supporting testimony from the Contractors License Board, Construction Industry Legislative Organization, Inc., and the Subcontractor's Association of Hawaii and finds that this bill allows unlicensed contractors to be cited immediately after a violation has been observed. The citation can be issued and the sanction imposed immediately rather than the months it takes under the current system.

The bill also provides an administrative hearing and appeal process, thereby eliminating unfair or unwarranted prosecution.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1766-84 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 Yamasaki and Soares.

SCRep. 719-84 Consumer Protection and Commerce on H.B. No. 1786-84

The purpose of this bill is to require only the President, instead of each member of the Board of Dental Examiners, to sign a license certificate and to delete an outdated requirement.

The present requirement for all license certificates to be signed by each member of the eleven-member board is time-consuming, costly and delays the issuance of licenses. Members of the board reside on all counties and it is difficult to obtain the signatures of all eleven members. Among the thirty boards and commissions in the Department of Commerce and Consumer Affairs (DCCA), the Board of Dental Examiners is the only board that requires the signatures of all members on the license certificates. The signature of the President alone should suffice.

The phrase "and attested by the secretary" is deleted because the records clerks under reorganization of the DCCA have custody of all licensing records.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1786-84, 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 Soares.

SCRep. 720-84 (Majority) Consumer Protection and Commerce on H.B. No. 2160-84

The purpose of this bill is to allow brokers to share commissions with brokers who are lawfully engaged in brokerage activities under the laws of a foreign country provided that such broker does not conduct any of the negotiations in this State.

The State Attorney General's office is of the opinion that a Hawaii broker may not split fees with a broker from a foreign country under existing law. A survey of 49 sister states, the District of Columbia, and six Canadian provinces indicates that thirteen states either permit or might permit fee splitting with brokers from a foreign country.

While Hawaii's license law does not permit this type of fee splitting, brokers who have affiliate offices in one of the thirteen states that allow fee splitting could circumvent Hawaii's law by processing transactions with brokers from foreign countries through their affiliate offices. Thus, Hawaii's law places brokers without affiliates in states permitting fee splitting at a disadvantage. This inequity would be corrected by the passage of this bill. In addition, permitting Hawaii brokers to share commissions with brokers from foreign countries would be a recognition of Hawaii's role in Asia-Pacific commerce.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2160-84, 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 Yamasaki and Soares.

Senator Kawasaki did not concur.

SCRep. 721-84 Consumer Protection and Commerce on H.B. No. 2497-84

The purpose of this bill is to allow an aggrieved person to seek recovery from the travel agency recovery fund when a registered travel agency violates the rules adopted pursuant to Chapter 468K, Hawaii Revised Statutes, or engages in unfair or deceptive acts or practices.

Presently, an aggrieved person may seek recovery from the fund only when a registered travel agency violated Chapter 468K. However, since the chapter is primarily a registration statute, violations of the chapter most frequently involve the failure to register. In practice, therefore, the recovery fund is rarely available to consumers who have incurred damages due to the misconduct of the registered travel agency.

This bill will allow consumers to seek recovery from the fund for unfair or deceptive acts or practices, or violations of rules adopted pursuant to Chapter

468K, as well as violations of the chapter.

Your Committee heard testimony from the Office of Consumer Protection, the Hawaii Business League, and the Department of Commerce and Consumer Affairs in support of this bill.

Your Committee wishes to emphasize that the bill and the present law pertain only to recovery as a result of the actions of registered travel agents and agencies. If a person is aggrieved by an unregistered travel agent or agency, the consumer will not be eligible for recovery from the fund.

Your Committee believes that the consuming public will be best served if it is provided with a means whereby it can identify registered travel agents and agencies. Your Committee accordingly requests that the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs give favorable consideration to an amendment to its rules to require travel agents and agencies to include their registry numbers in their advertisements.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2497-84, 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 except Senators Yamasaki and Soares.

SCRep. 722-84 Consumer Protection and Commerce on Gov. Msg. Nos. 94, 95, 126, 127, 128, 130, 131 and 132

Recommending that the Senate advise and consent to the nominations of the following:

JOHN LOPES to the Elevator Mechanics Licensing Board, for a term ending December 31, 1985;

LAWRENCE S. SAKAMOTO to the Elevator Mechanics Licensing Board, for a term ending December 31, 1986;

ROY YASUKOCHI to the Elevator Mechanics Licensing Board, for a term ending December 31, 1984;

JOSEPHINE C. DUVAUCHELLE to the State Board of Nursing, for a term ending December 31, 1985;

GARY T. TAOGOSHI to the Board of Barbers, for a term ending December 31, 1987;

EDWIN N. FUJIMOTO, D.D.S., to the Board of Dental Examiners, for a term ending December 31, 1987;

HOWARD L. FARWELL to the Elevator Mechanics Licensing Board, for a term ending December 31, 1987;

JUNE UYEHARA-ISONO to the Board of Hearing Aid Dealers and Fitters, for a term ending December 31, 1987;

REX R. BALL to the Board of Massage, for a term ending December 31, 1987; and

JOHN K. UYETAKE to the Motor Vehicle Industry Licensing Board, for a term ending December 31, 1987.

Signed by all members of the Committee except Senators Yamasaki and Soares.

SCRep. 723-84 Consumer Protection and Commerce on Gov. Msg. Nos. 133, 134, 135, 136, 137, 203 and 204

Recommending that the Senate advise and consent to the nominations of the following:

RICHARD ROVIN, N.D., to the Board of Examiners in Naturopathy, for a

term ending December 31, 1987;

GLORIA M. MAYER to the Board of Dispensing Opticians, for a term ending December 31, 1987;

DOUGLAS P. HAGEN, D.O., to the Board of Osteopathic Examiners, for a term ending December 31, 1987;

HERBERT B. WEAVER, Ph.D., to the Board of Certification of Practicing Psychologists, for a term ending December 31, 1987;

DOROTHY D. CRAVEN, ROLAND F.S. TAM, M.D., and VICKIE M.I. PEILER to the Board of Speech Pathology and Audiology, for a term ending December 31, 1986;

PERFECTO L. CORTEZ to the Board of Public Accountancy, for a term ending December 31, 1987; and

NICHOLAS W. TEVES, Jr., WALLACE M. MIURA and GEORGE R. RODRIGUES, Jr., to the Contractors License Board, for terms ending December 31, 1987.

Signed by all members of the Committee except Senators Yamasaki and Soares.

SCRep. 724-84 Consumer Protection and Commerce on Gov. Msg. Nos. 205, 206, 207, 218, 231, 232, 234, 235 and 236

Recommending that the Senate advise and consent to the nominations of the following:

THOMAS F. SEU to the Credit Union Review Board, for a term ending December 31, 1986;

HERBERT K. ENDO to the Board of Electricians and Plumbers, for a term ending December 31, 1985;

ELIZABETH J. WAITE to the Board of Nursing, for a term ending December 31, 1986;

PATRICK H. NAM, O.D., to the Board of Examiners in Optometry, for a term ending December 31, 1987;

JOHN E. KNIGHT, D.D.S., to the Board of Dental Examiners, for a term ending December 31, 1987;

MARION F. OKI to the Board of Barbers, for a term ending December 31, 1987;

RICK HOO to the Board of Cosmetology, for a term ending December 31, 1987;

WARREN M. LA FRANCE to the Board of Electricians and Plumbers, for a term ending December 31, 1984; and

THOMAS P. PAPANDREW and RODNEY M. KAWAMURA to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for terms ending December 31, 1987.

Signed by all members of the Committee except Senator Soares.

SCRep. 725-84 Human Resources on Gov. Msg. No. 296

Recommending that the Senate advise and consent to the nominations to the Policy Advisory Board for Elderly Affairs of the following:

GEORGE K. KAWELO, SR., for a term ending December 1986; and

RAYMOND M. HIGHTOWER, JAIME VERGARA, SHIMEJI KANAZAWA and DIANA McKEAGUE, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 726-84 Human Resources on Gov. Msg. No. 313

Recommending that the Senate advise and consent to the nominations to the Advisory Commission on Manpower and Full Employment of the following:

RODNEY E. HUSTEAD, for a term ending June 30, 1986; and

DORIS K. NAKAYAMA, for a term ending June 30, 1985.

Signed by all members of the Committee.

SCRep. 727-84 Human Resources on Gov. Msg. No. 309

Recommending that the Senate advise and consent to the nomination of GERALDINE AH SAM to the Board of Vocational Rehabilitation, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 728-84 Ways and Means on Gov. Msg. Nos. 224, 265, 266 and 267

Recommending that the Senate advise and consent to the nominations of the following:

HAROLD AIU to the Board of Taxation Review, Fourth Taxation District, for a term ending December 31, 1987;

ROY K. AMEMIYA, Jr., to the Board of Taxation Review, First Taxation District, for a term ending December 31, 1987;

HIDEO MATSUSHITA and JOSEPH A. FRYE to the Board of Taxation Review, Second Taxation District, for terms ending December 31, 1987; and

ANTONE DE MORALES to the Board of Taxation Review, Third Taxation District, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 729-84 Ways and Means on S.C.R. No. 49

The purpose of this concurrent resolution is to request the department of taxation to investigate the alleged nonpayment of the general excise tax by mainland contractors performing public works on United States military bases in Hawaii and to pursue payment of taxes owed by mainland contractors for past work if it is discovered that liability exists.

Testimonies of various trade unions on this concurrent resolution indicate that the allegation is true that some mainland contractors performing public works on U.S. military bases in Hawaii do not pay the state general excise tax. One result of the nonpayment of the tax is said to be the loss of millions of dollars in state revenues. Another result, more indirect but at least as damaging, is said to be the disadvantage at which local contractors are placed when bidding for federal public works. Mainland contractors who do not intend to pay the tax and thus do not factor the expense of the tax in their bids are able to submit lower bids than local contractors. Thus, the testifiers cite this illegal and unfair competitive advantage as a major factor in allowing some mainland contractors to have obtained their contracts.

The department of taxation has testified that it is aware of the allegation and is conducting an investigation into the matter. The department concurs with this concurrent resolution and states that a report of the results of the investigation will be submitted to the legislature prior to the convening of the next regular session.

Your Committee has amended this concurrent resolution by requesting the department to submit, along with the report, recommended legislation to remedy the problem. Your Committee also has inserted a new "resolved clause" requesting the department to continuously monitor the compliance of mainland contractors performing federal public works on military bases with the general excise tax law and to enforce the law upon finding of noncompliance.

Your Committee on Ways and Means 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.

SCRep. 730-84 Ways and Means on H.C.R. No. 51

The purpose of this concurrent resolution is to comply with section 203(j)(4)(A) of the Federal Property and Administrative Services Act of 1949, as amended by Public Law 94-519, and with the General Services Administration requirement for the submission of a legislatively developed plan of operation for the federal surplus property program by June 30, 1984.

Your Committee finds that the Surplus Property Branch of the Department of Accounting and General Services has been responsible for administering the Federal Surplus Personal Property Program in accordance with a plan of operation approved by the General Services Administration since October 17, 1977. During fiscal years 1977-1978 to 1982-1983, the State of Hawaii has received surplus personal property with a government-acquisition value in excess of \$10,000,000. Your Committee is in agreement that the 1977 plan of operation has been effective and that, in compliance with federal statutes, it should be adopted by the Legislature in order to provide uninterrupted flow of benefits to the State.

Your Committee on Ways and Means concurs with the intent and purpose of H.C.R. No. 51, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 731-84 Ways and Means on H.B. No. 2383-84

The purpose of this bill is to authorize the sale and distribution of House and Senate Journals by the Lieutenant Governor to the general public at a fixed charge and to public officials free of charge.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2383-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 732-84 Ways and Means on H.B. No. 1800-84

The purpose of this bill is to increase the maximum principal amount of revenue bonds which may be issued by the Hawaii housing authority for the housing loan and mortgage program from \$475 million to \$875 million.

Your Committee finds that the State's revenue bond program, known as Hula Mae, has been an effective tool in providing home financing assistance to first time homebuyers. Although federal law has prevented the issuance of mortgage revenue bonds since December 31, 1983, there is much optimism that the Congress will allow the program to continue. This bill will provide a bond authorization sufficient to allow the Hula Mae program to continue for another two and one-half years, upon congressional action to extend federal tax provisions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1800-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 733-84 Human Resources on S.C.R. No. 72

The purpose of this concurrent resolution is to approve the report of the biennial review of the Compensation Plans of the State, Judiciary, and Counties by the Conference of Personnel Directors and the Public Employees Compensation Appeals Board, including the cost of any adjustments effective July 1, 1984, in accordance with Sections 77-4 and 77-5, Hawaii Revised Statutes. The report was submitted to the Legislature on January 10, 1984 through the Office of the Governor.

According to testimony presented to your Committee by the Department of Personnel Services and the Hawaii Government Employees Association, the review of the Compensation Plans has been conducted since 1961, first on an annual basis and then on a biennial basis from 1963. In the current review, the pricing relationships of all classes in the State, Judiciary, and several counties were examined with special attention to secretarial classes and professional hospital support classes.

Your Committee finds that upon legislative adoption of this resolution and the appropriation of funds in the supplemental budget for this purpose, the pay adjustments, as adopted by the Public Employees Compensation Appeals Board, will be implemented by the State and counties effective July 1, 1984.

Your Committee on Human Resources is in accord with the intent and purpose of S.C.R. No. 72 and recommends its adoption.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 734-84 Housing and Urban Development on Gov. Msg. No. 100

Recommending that the Senate advise and consent to the nominations to the Hawaii Community Development Authority of the following:

ERIC S. FUKUNAGA, for a term ending December 31, 1986; and

HELEN M. WIEGERT, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 735-84 Housing and Urban Development on Gov. Msg. No. 168

Recommending that the Senate advise and consent to the nominations of JOHN SPIERLING and WILLIAM A. KNUTSON to the Hawaii Housing Authority, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 736-84 Housing and Urban Development on Gov. Msg. No. 295

Recommending that the Senate advise and consent to the nominations of IVAN M. LUI-KWAN and KENNETH K. TAKENAKA to the Hawaii Community Development Authority, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 737-84 Housing and Urban Development on H.C.R. No. 49

The purpose of this concurrent resolution is to urge the United States government to negotiate as promptly as possible the return of 1,356 acres of Hawaiian home lands at Lualualei on Oahu to the jurisdiction of the Hawaiian Homes Commission.

Your Committee finds that, in 1930 and 1933, two Governor's Executive Orders set aside 1,356 acres of Hawaiian home lands at Lualualei to the United States Department of the Navy for national defense purposes. However, such "set-aside" action has been ruled to be illegal and void by recent federal and state court decisions. The Department of Hawaiian Home Lands therefore has requested that the Department of the Navy either provide just compensation for the use of the land during the past 50 years or return the lands.

The Hawaiian Homes Commission Act, 1920, as passed by the United States Congress and adopted as an obligation of the State upon joining the Union in 1959, provides for a separate and distinct class of lands to be used solely for the rehabilitation of native Hawaiians. Occupation of these Hawaiian home lands by the United States from 1933 to the present has deprived the Hawaiian Homes Commission and native Hawaiian beneficiaries of the land's use without just compensation. In order to fulfill the State's fiduciary obligations to native Hawaiian beneficiaries, your Committee believes that the State should adopt a stronger position in urging the federal government to rectify the improper and illegal transfer of Hawaiian home lands at Lualualei on Oahu.

Your Committee has amended the resolution and its title to emphasize the State's position in urging the return of Hawaiian home lands at Lualualei.

Your Committee on Housing and Urban Development concurs with the intent and purpose of H.C.R. No. 49, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 49, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 738-84 Housing and Urban Development on S.C.R. No. 64

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a study into the feasibility of providing alternative means of financing the construction of improvements on Hawaiian home lands in order to expand the growth of the Hawaiian home lands homestead programs.

Presently, section 208(5) of the Hawaiian Homes Commission Act, 1920, as amended, states that lessees shall not agree to transfer, mortgage, pledge, or otherwise subject their leasehold interest to takeover by nonnative Hawaiians. Since this restriction has prevented homesteaders from securing improvement loans from private financial institutions, the State, through the Department of Hawaiian Home Lands (DHHL), has had to provide the improvement loans.

Your Committee finds that although the Department has provided loans to homesteaders, the limited funds and the inability of lessees to obtain financing from outside sources have constrained the growth of the homestead awards program.

The problem is magnified by the high cost of development and construction of improvements. According to testimony by the DHHL, basic site development cost for residential subdivisions including surveys, grading, access roads, and utilities, average \$40,000 per lot. Construction of a single family dwelling is at an additional cost which averages \$45,000.

Accelerating the distribution of lands to native Hawaiians has been identified as a priority goal by the Federal-State Task Force on Hawaiian Home Lands. The rate of awarding homestead lots during the more than 60 years of the program has not matched the demand as evidenced by the present waiting list of approximately 8,000 native Hawaiians.

Your Committee believes that a study of the feasibility of providing alternative leasing arrangements to native Hawaiians will provide possible means of improving the lessees' ability to finance the construction of dwellings and other improvements on their homestead lots.

Your Committee on Housing and Urban Development concurs with the intent and purpose of S.C.R. No. 64 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 739-84 Housing and Urban Development on S.C.R. No. 74

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to undertake a study to determine the feasibility of rent control in the State, and if rent control is found to be feasible, to draft rent control legislation.

Testimony received from the City and County of Honolulu, Department of Housing and Community Development, stated that estimates derived from the 1980 Census for the City's current Housing Assistance Plan indicate that a total of 59,585 low and moderate income renter households reside on Oahu. This represents approximately 52 percent of all renter households on the island. The Housing Assistance Plan Needs Assessment further indicates that the low and moderate income renter population is most likely to occupy substandard units, be displaced from their dwelling, and pay disproportionate amount of income for housing. Specifically:

- (1) 12,656, or 57 percent of all substandard housing units are occupied by low and moderate income renters;
- (2) Approximately 1,653 low-moderate income renter households are expected

to be displaced during the period 1982-85, due to publicly and privately initiated demolitions, enforcement of the City's Building Code, and condominium conversions;

- (3) Approximately 36,154 low-moderate income renter households are paying (or are expected to pay as the result of displacement) more than 30 percent of their income for rent; and
- (4) At least 17,883, or 30 percent of all low-moderate income renter households are paying more than 50 percent of their income for rent. The majority of these are family households of three or more persons.

Your Committee finds that the rental situation in Hawaii is in a severe crisis. More than 55 percent of the State's population are renters and the median cost of rentals in Hawaii is the second highest in the nation. Oahu has a vacancy rate of 1.7 percent whereas the U.S. Department of Housing and Urban Development states that a healthy market should have a vacancy rate of 5 percent. An already inadequate residential rental supply was depleted by 29 percent when 8,000 units statewide were converted to condominiums.

Your Committee finds that in light of the current housing situation, there is a need to seriously study rent control as a means of alleviating the shortage of affordable housing for the people of Hawaii.

Your Committee amended the concurrent resolution by making technical and language changes that have no substantive effect.

Your Committee on Housing and Urban Development concurs with the intent of S.C.R. No. 74, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 74, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 740-84 Housing and Urban Development on S.R. No. 32

The purpose of this resolution is to request the Hawaii Community Development Authority (HCDA) to provide relocation assistance to the businesses which will be displaced by the development of the Honolulu Iron Works complex.

This resolution also requests the HCDA to report to the Legislature within the next twenty days on the following matters:

- (1) What form of relocation assistance has been and will be provided to the businesses which will be displaced from the Honolulu Iron Works complex;
- (2) Why no relocation office has been established and why no rules regarding relocation assistance have been adopted; and
- (3) Why businesses from outside the Kakaako area are being allowed to locate in the area makai of the Ala Moana Boulevard in the Kakaako Community Development District which is intended to be used to temporarily relocate businesses displaced by the development of Kakaako.

Your Committee finds that the State's involvement in planning and regulating development in the Kakaako District does not qualify all displacements in the area for relocation assistance. Existing Federal and State relocation assistance laws, including HCDA's relocation mandate, limit relocation assistance to situations where government is directly involved in displacement. The State Attorney General has rendered an opinion on the definition of governmental action that limits relocation assistance to displacements resulting from the direct involvement of government. Your Committee finds that government involvement should not be construed to include land use zoning changes, such as the Kakaako Plan or County zoning, so as to qualify those displaced subsequent to such changes for relocation assistance.

A concern raised in the resolution is the question of whether government is responsible to provide for the relocation of individuals and businesses displaced by private development. Although HCDA is not presently authorized to provide relocation assistance to those displaced by private actions, there has been much concern about the problems of displacement confronting small businesses, and

the need for HCDA to provide some assistance. Under consideration this legislative session is S.B. No. 1811-84 which will authorize HCDA to provide relocation assistance to displacees of private actions.

Your Committee amended the resolution by deleting the fourteenth, fifteenth, and sixteenth WHEREAS clauses relating to the HCDA's position of not providing assistance to businesses in Kakaako since they were not displaced by "government action". Your Committee finds that in light of the enabling legislation presently being considered, these clauses are unnecessary.

Your Committee has also amended the resolution to change the deadline for the HCDA to submit a report to the Legislature to "before the adjournment of the 1984 State Legislative Session".

Your Committee is concerned about the problem of businesses that had prior knowledge of Kakaako redevelopment plans but chose to locate in the area. While your Committee understands the problems of any business that is disrupted by redevelopment activities, there is a certain inequity in providing assistance across the board. Your Committee finds that if the HCDA is authorized to provide assistance, attention be given to determining assistance based on such factors as need, whether the business had or could reasonably have had prior knowledge of development plans at the time of locating in Kakaako, or requiring a reasonable period of occupancy to qualify for assistance.

Your Committee further finds that it is essential to determine a method of equitably allocating resources so as not to deprive those businesses legitimately in need of assistance.

Your Committee on Housing and Urban Development concurs with the intent of S.R. No. 32, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 32, S.D. 1.

Signed by all members of the Committee.

SCRep. 741-84 Housing and Urban Development on S.R. No. 86

The purpose of this resolution is to request lessors of the State to place a moratorium on all lease rent increases until June 30, 1985, except for renegotiations required for financing purposes, and to request an interim committee of the Senate Committee on Housing and Urban Development to conduct a study on lease rent renegotiations and the United States Supreme Court decision on the Hawaii Land Reform Act.

Lessees of this State have expressed concerns over the current system of renegotiating lease rents which provides them with very little negotiating power. In some instances, renegotiated lease rents have increased in excess of 2000%. Several bills dealing with this issue were introduced this legislative session. H.B. No. 2246-84, H.D. 2, proposed the use of a 5.5% factor for lease rent increases. After a public hearing on the Senate companion bill (S.B. No. 1813-84) and review of the House bill, your Committee found that further research was necessary in order that prudent and legal solutions to the problem of increasing lease rents may be identified. The Committee's major concerns with respect to the various proposals are: (1) the presumption made by H.B. No. 2246-84, H.D. 2, that lease rent established at the onset of a lease is an intrinsically fair and true representation of land values and, therefore, should be used as a "basis" upon which all increases are calculated; (2) the constitutionality of the use of a 5.5% factor and whether such a factor may be considered arbitrary and capricious; and (3) the pending United States Supreme Court decision on the Hawaii Land Reform Act which may affect lease rent renegotiation statutes.

Your Committee finds that, given the present circumstances, a moratorium on lease rent is a reasonable course to follow as it would provide an opportunity to study the lease rent renegotiation issue in greater detail. Your Committee believes that an interim committee comprised of lessees, lessors and an organized panel of experts can best formulate solutions to the pressing problem of inflationary lease rents.

Your Committee has amended the resolution to specify that the Senate President shall appoint members of the proposed interim committee.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.R. No. 86, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 86, S.D. 1.

Signed by all members of the Committee.

SCRep. 742-84 Housing and Urban Development on S.R. No. 81

The purpose of this resolution is to request the Legislative Reference Bureau to undertake a study to determine the feasibility of rent control in the State, and if rent control is found to be feasible, to draft rent control legislation.

Testimony received from the City and County of Honolulu, Department of Housing and Community Development, stated that estimates derived from the 1980 Census for the City's current Housing Assistance Plan indicate that a total of 59,585 low and moderate income renter households reside on Oahu. This represents approximately 52 percent of all renter households on the island. The Housing Assistance Plan Needs Assessment further indicates that the low and moderate income renter population is most likely to occupy substandard units, be displaced from their dwelling, and pay disproportionate amount of income for housing. Specifically:

- (1) 12,656, or 57 percent of all substandard housing units are occupied by low and moderate income renters;
- (2) Approximately 1,653 low-moderate income renter households are expected to be displaced during the period 1982-85, due to publicly and privately initiated demolitions, enforcement of the City's Building Code, and condominium conversions;
- (3) Approximately 36,154 low-moderate income renter households are paying (or are expected to pay as the result of displacement) more than 30 percent of their income for rent; and
- (4) At least 17,883, or 30 percent of all low-moderate income renter households are paying more than 50 percent of their income for rent. The majority of these are family households of three or more persons.

Your Committee finds that the rental situation in Hawaii is in a severe crisis. More than 55 percent of the State's population are renters and the median cost of rentals in Hawaii is the second highest in the nation. Oahu has a vacancy rate of 1.7 percent whereas the U.S. Department of Housing and Urban Development states that a healthy market should have a vacancy rate of 5 percent. An already inadequate residential rental supply was depleted by 29 percent when 8,000 units statewide were converted to condominiums.

Your Committee finds that in light of the current housing situation, there is a need to seriously study rent control as a means of alleviating the shortage of affordable housing for the people of Hawaii.

Your Committee amended the resolution by making technical and language changes that have no substantive effect.

Your Committee on Housing and Urban Development concurs with the intent of S.R. No. 81, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 81, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 743-84 (Majority) Housing and Urban Development on S.C.R. No.
62

The purpose of this concurrent resolution is to request the Legislative Auditor to determine if utilization of the public authority device can improve the processes by which the Department of Hawaiian Home Lands serves its native Hawaiian beneficiaries.

The proposed study will implement the recommendation of the Federal-State Task Force on the Hawaiian Homes Commission Act which noted in its report

that the Department of Hawaiian Home Lands is constrained in carrying out its responsibilities, particularly in the areas of generating revenues, investing income, and hiring adequate staff. It has been found that the creation of "public authorities" has been used in other jurisdictions to overcome problems of similar difficulty.

Your Committee believes that an in-depth examination of the public authority as a device for possible application to the Hawaiian Home Lands program could provide useful answers to the following questions:

(1) Could the public authority device be used to improve upon financial management and the generation of income into the Hawaiian Home Lands trust?

(2) Can the public authority device provide an effective mechanism for improving the development of homestead projects and the accelerated distribution of trust benefits to native Hawaiians?

(3) Can the public authority device be used to improve organization and management and provide greater flexibility in hiring to better satisfy personnel needs for administering the trust?

Your Committee on Housing and Urban Development concurs with the intent and purpose of S.C.R. No. 62 and recommends its adoption.

Signed by all members of the Committee except Senator Cobb.
Senator Kawasaki did not concur.

SCRep. 744-84 Housing and Urban Development on Gov. Msg. No. 167

Recommending that the Senate advise and consent to the nominations of MELVIN D. KALAHIKI and ELEANOR K. AHUNA to the Hawaiian Homes Commission, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 745-84 Housing and Urban development on Gov. Msg. No. 261

Recommending that the Senate advise and consent to the nomination of WALTER S.S. ZANE to the Advisory Council for Housing and Construction Industry, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 746-84 Tourism on S.R. No. 27

The purpose of this resolution is to establish a State Commission for the Preservation of Fort DeRussy, consisting of various representatives from Hawaii and a paid executive director, to spearhead a drive and ensure that immediate action is taken to save the open space located at Fort DeRussy. The Commission is made responsible for lobbying, planning overall strategy, monitoring developments, and working with Hawaii's congressional delegation to preserve that open area.

Your Committee finds that this resolution requires quick action to be taken towards meeting the federal threat looming over Fort DeRussy's future. Your Committee further finds that public opinion is overwhelmingly against the development of high rise buildings on Fort DeRussy lands.

Your Committee further finds the Fort DeRussy area to be essential to both residents and visitors for recreation and enjoyment, and clearly benefits Hawaii's visitor industry and that this region relieves the already dense resort development in Waikiki.

In 1967, Senator Daniel K. Inouye and the late Senator Henry M. Jackson introduced a measure, later adopted, amending the then proposed Military Construction Authorization Act of 1968, to prohibit the sale, lease, or transfer of Fort DeRussy by the Department of Defense absent congressional approval. See Public Law 90-110. While thus far this has prevented the sale of Fort DeRussy lands, it does not guarantee that the land will not be sold in the future as such sale is contingent upon congressional sentiment.

The federal government's recent proposal to sell 17 of Fort DeRussy's 69.74 acres of land to relieve the national debt, created a furor and raised serious concerns over whether high rises would be built on that land if sold. Then in mid-1983, Mr. Joshua Muss, Executive Director of the Federal Property Review Board offered the following: the bulk of Fort DeRussy, 43 acres mauka of Kalia Road, would be divided between the federal government and the City and County of Honolulu for public purposes, one-half to be given in fee to the City and one-half to remain with the federal government which could then sell all or part of its share subject to a 6-story height limitation.

Your Committee believes the establishment of a state commission would spur state and county action to preserve Fort DeRussy's open space and lead to a fast and favorable resolution of its future.

Your Committee received testimonies from several concerned groups, U.S. Senator Daniel K. Inouye, City Council Chairperson Patsy Mink, City Councilperson George Akahane representing the Hawaii State Association of Counties, the Department of Land and Natural Resources, the Chamber of Commerce of Hawaii, the Council of Presidents, and Hawaii's Thousand Friends, all supporting S.R. No. 27 as an important step towards preserving Fort DeRussy.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 27 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 747-84 (Majority) Tourism on H.C.R. No. 110

The purpose of this resolution is to request the Board of Land and Natural Resources (BLNR) to lease the former Hale Mohalu site to an eleemosynary organization for youth athletic and recreational activities.

Your Committee held a public hearing on a similar resolution, S.R. No. 77, with an identical title and received testimony from twenty-two witnesses.

Your Committee received testimony from Mr. Susumu Ono, Chairperson to the BLNR, who testified that Section 171-43, Hawaii Revised Statutes, allows the BLNR to lease land directly to any eleemosynary or religious organization for specified purposes on a nominal consideration basis. The Board, however, does not at this time have the authority to make any disposition of the Hale Mohalu site since under Executive Order No. 2641, the Department of Health was authorized jurisdiction of the Hale Mohalu site. Executive Order No. 3214 cancelled Executive Order No. 2641, however, Section 171-11, Hawaii Revised Statutes, specifies that executive orders setting aside or withdrawing public lands are subject to legislative disapproval. If the present Legislature adjourns without disapproving Executive Order No. 3214, the Board will assume authority to dispose of the Hale Mohalu site. Mr. Ono further testified that the Office of Hawaiian Affairs, the Hawaii Housing Authority, and a non-profit Pearl City community athletic group have applied to lease the land, and that all requests will be considered by the Land Board at a later date.

Several individuals speaking on behalf of the Hale Mohalu Ohana requested that the resolution be amended to designate a portion of the land (approximately 2.5 acres of the 11.3 acres) for the development of a Hansen's Disease residential care facility. As a point of information, Hale Mohalu has been the home of Hansen's Disease patients from 1949 to 1977. Several individuals representing the interests of the Pearl City community athletic group requested that no amendment be made to the resolution knowing that a mixed use of the land will not be approved by the Board.

The Chairman conducted a discussion during which former Hale Mohalu residents, Hansen's Disease patients, and supporters shared information about the history of the Hale Mohalu land and reasons why the Hale Mohalu land should be returned to the patients. The feeling was expressed that the Hale Mohalu facility was closed illegally by the state.

Committee members acknowledged the historical background of Hale Mohalu and the request of the Hale Mohalu Ohana. Senator Benjamin J. Cayetano explained that the Legislature did support the Hale Mohalu Ohana in the 1979 budget when \$600,000 was appropriated to "resurrect" the facility. The State Administration did not release the funds thus reaffirming its position that Hansen's

Disease patients will be cared for at another Oahu facility.

The Chairman explained that Mr. Charles Clark, Director of the State Health Department, had informed him that the Health Department will continue to provide health services for Hansen's Disease patients at Kalaupapa and Leahi, but not at Hale Mohalu. The Director stated that there are plans under way to develop residential facilities where small clusters of patients would receive health care in an informal atmosphere. The Chairman also spoke with Mr. Susumu Ono, who affirmed that when the Hale Mohalu land parcel is leased to a requesting organization, no portion of the parcel will be used for other purposes.

Based on the foregoing, and after full and fair consideration being given to all the issues and interests involved, your Committee finds that the request of H.C.R. No. 110, H.D. 1, is both reasonable and worthy of further consideration by the Department of Land and Natural Resources.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 110, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.
Senator Carpenter did not concur.

SCRep. 748-84 Tourism on H.C.R. No. 35

The purpose of this concurrent resolution is to request a status report on the Big Island Ocean Recreation and Tourism Project.

Following a public hearing held on House Resolution No. 263 during the 1983 Regular Session, the University of Hawaii Sea Grant Extension Service requested the Department of Planning and Economic Development to utilize funds provided through PED 109 to begin developing a community-based program on the Big Island to promote ocean recreation and education.

The use of State funds for this program was approved because it is important for citizens of Hawaii to become aware and knowledgeable about the ocean environment which surrounds them and the importance of the State's ocean resources. Further, the ocean is an important part of the attraction that Hawaii holds for the visitors who play a vital role in our economy.

Your Committee finds that a program to develop and promote ocean recreation can reap economic benefits for the County of Hawaii and the State. Through the cooperative efforts of community groups and individuals, the private sector, and county, state, and federal agencies, this program and others like it have the potential to make a balanced and significant contribution to the quality of life of the community and the State. The efforts being carried out on the Big Island can serve as a model and inspiration for similar programs throughout the State.

Your Committee finds that there is a need to coordinate the activities of the various agencies involved in this project to make the most effective use of available resources, to promote the recreational and tourism potential of the Big Island, and to develop a prototype which can be applied on other islands in the State. This resolution, requesting a status report on the Big Island Recreation and Tourism Project and the development of a five-year plan for promoting Big Island recreation opportunities, is necessary to assist the Legislature in making an assessment of the project's progress and to guide future legislative support and decisions in this area.

Your Committee amended the BE IT RESOLVED clause by deleting the word "during" and adding the words "twenty days prior to" and deleting the year "1984" and adding the words "of 1985" to extend the deadline for the formal status report.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 35, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 35, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 749-84 Tourism on Gov. Msg. Nos. 183 and 213

Recommending that the Senate advise and consent to the nominations of the following:

HALLET HAMMATT, Ph.D., and PAULINE KING, Ph.D., to the Hawaii Historic Places Review Board, for terms ending January 1, 1988; and

FRED CACHOLA, Jr., and LINDA NISHIGAYA to the Hawaii Historic Places Review Board, for terms ending January 1, 1988.

Signed by all members of the Committee.

SCRep. 750-84 Economic Development on Gov. Msg. No. 141

Recommending that the Senate advise and consent to the nomination of RICHARD B.F. CHOY to the Land Use Commission, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 751-84 Economic Development on Gov. Msg. No. 246

Recommending that the Senate advise and consent to the nomination of TORU SUZUKI to the Land Use Commission, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 752-84 Economic Development on Gov. Msg. No. 303

Recommending that the Senate advise and consent to the nomination of LEONARD H. ZALOPANY to the Board of Land and Natural Resources, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 753-84 Higher Education on Gov. Msg. No. 308

Recommending that the Senate advise and consent to the nomination of STELLA L.T. ASAHARA to the Western Interstate Commission for Higher Education, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 754-84 Higher Education on Gov. Msg. No. 307

Recommending that the Senate advise and consent to the nomination of ROBIN K. CAMPANIANO to the Board of Regents, University of Hawaii, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 755-84 (Majority) Economic Development on Gov. Msg. No. 208

Recommending that the Senate advise and consent to the nomination of ROLAND HIGASHI to the Board of Land and Natural Resources, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Chang.
Senators Hagino and Kuroda did not concur.

SCRep. 756-84 Government Operations and County Relations on H.B. No. 1723-84

The purpose of this bill is to allow the Comptroller to accept copies of bills which accompany vouchers, rather than original bills, if there is a related encumbrance in the State's control accounting records.

Sections 40-56 and 40-57, Hawaii Revised Statutes, require that vouchers submitted to the Comptroller for payment must contain the original of the bills (invoices) to be paid, to minimize the likelihood of duplicate payments by the State.

However, the requirement of original bills has resulted in problems when the original bill is lost, and has sometimes delayed payment to the vendor. Moreover, current printing technology has made it increasingly difficult to determine whether or not a bill is an original.

Under the State's new accounting system, encumbrances are routinely recorded in control account records; when payment is made, the related encumbrance is liquidated. Your Committee further finds that it is highly unlikely that a duplicate payment would be made if the expending agency is using the encumbrance system for all vendor related payments, as a duplicate payment cannot be made without re-encumbrance of the obligation.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 1723-84, 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 B. Kobayashi.

SCRep. 757-84 Government Operations and County Relations on H.B. No.
2093-84

The purpose of this bill is to provide that leaving a derelict vehicle, as defined in Section 290-8, Hawaii Revised Statutes, on any public property or on private property without authorization, is a petty misdemeanor. The bill also clarifies the definition of an abandoned vehicle.

Currently, Section 290-12, Hawaii Revised Statutes, provides that anyone who leaves an abandoned vehicle, as defined in Section 290-8, on any public property or private property without authorization is guilty of a petty misdemeanor. However, Section 290-8, defines derelict vehicle, rather than an abandoned vehicle, while Section 290-1 refers to abandoned vehicles. Testimony by the Honolulu Police Department states that because Section 290-8, Hawaii Revised Statutes, is construed to be merely a definition of a derelict vehicle, enforcement of violations regarding derelict vehicles has characteristically been pursued under the littering law, Section 339-4. During 1983, 2,322 citations were issued for abandoned vehicles under the City and County of Honolulu Traffic Code, and only 97 citations were issued for violation of Section 290-12, Hawaii Revised Statutes. No citations were issued for violation of Section 290-8, Hawaii Revised Statutes, relating to derelict vehicles.

Your Committee finds that by including derelict vehicles within the scope of Section 290-12, Hawaii Revised Statutes, there will be a clear statutory basis for prosecuting violations regarding derelict vehicles.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 2093-84 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 B. Kobayashi.

SCRep. 758-84 Government Operations and County Relations on H.B. No.
2103-84

The purpose of this bill is to require all premises licensed to distribute intoxicating liquor to post a sign notifying customers and other persons of the penalties under the drunk driving laws.

Your Committee heard favorable testimony from the Prosecuting Attorney of the City and County of Honolulu supporting the intent of the bill.

Your Committee finds that public awareness of the penalties of driving under the influence of intoxicating liquor will aid in reducing the number of drunk drivers on Hawaii's roads and the number of deaths resulting from accidents involving drunk drivers.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 2103-84 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 B. Kobayashi.

SCRep. 759-84 Government Operations and County Relations on H.B. No. 2187-84

The purpose of this bill is to amend those sections of Chapter 281, Hawaii Revised Statutes, dealing with notice, protest, and hearing procedures in connection with liquor licenses.

Currently, a notice of hearing on applications for liquor licenses is not required to be mailed to individual shareholders of cooperative apartments. This bill requires that notices be mailed to those shareholders or owners situated within certain specified distances of the premises for which the license is asked, from a list of owners provided by the managing agent or governing body of the shareholders association.

This bill also allows shareholders of cooperative apartments to file protests against the granting of a liquor license.

Your Committee received favorable testimony from the President of the Hawaii TMK Service, who agrees with the intent of the bill.

Your Committee on Government Operations and County Relations is in accord with the intent and purpose of H.B. No. 2187-84, 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 except Senators Abercrombie, Cobb and Solomon.

SCRep. 760-84 Government Operations and County Relations on H.C.R. No. 17

The purpose of this concurrent resolution is to request the United States Customs Service to review their respective processing procedures for foreign visitors and explore methods to facilitate the process including the establishment of pre-clearance procedures for Japanese visitors.

Your Committee finds that there is a need to improve entry procedures at Honolulu International Airport where problems are apparent due to multiple plane arrival, language difficulties and the processing of immigrants and visitors among the foreign arrivals. A pre-clearance procedure will significantly facilitate customs and immigration processing procedures for foreign visitors. This increased ease of clearance will make Hawaii a more attractive and pleasant place for foreigners contemplating overseas travel. Establishment of such a procedure would also result in reducing the need for inspection teams which are currently in great demand due to existing budget restrictions and the increase in foreign travelers.

Your Committee on Government Operations and County Relations 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 B. Kobayashi.

SCRep. 761-84 Judiciary on S.R. No. 114

The purpose of this resolution is to reaffirm the commitment of the Senate to equal access to justice, and to recognize and express support for the nonprofit public interest law programs. Further, the Hawaii Bar is strongly urged to support existing programs and encourage innovative approaches in the provision of access to legal services for the poor and advocacy in the public interest.

Your Committee has held a public hearing on this resolution and has received testimony in support of the resolution from the Legal Aid Society of Hawaii, Hawaii Lawyers Care, the Native Hawaiian Legal Corporation, Hawaii's Thousand Friends, and Na Loio No Na Kanaka -- the Lawyers for the People of Hawaii.

Your Committee finds:

1) Access to legal services for the poor and advocacy in the public interest are essential if the rights, benefits, protections and obligations provided for by law are to be enforced equally among all persons in the State; and

2) There is a pressing need for access to the justice system for the poor; and

3) The legal profession, in its Code of Professional Responsibility, has recognized the obligation of every lawyer to provide legal services to the disadvantaged and, where individual efforts cannot meet the need, to support legal services programs; and

4) Those who staff public interest law programs, notoriously overworked and underpaid, have through their commitment to the community made significant contributions, yet have received little positive recognition for their efforts.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 114 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 762-84 Judiciary on S.C.R. No. 100

The purpose of this concurrent resolution is to reaffirm the commitment of the Senate to equal access to justice, and to recognize and express support for the nonprofit public interest law programs. Further, the Hawaii Bar is strongly urged to support existing programs and encourage innovative approaches in the provision of access to legal services for the poor and advocacy in the public interest.

Your Committee has held a public hearing on this resolution and has received testimony in support of the resolution from the Legal Aid Society of Hawaii, Hawaii Lawyers Care, the Native Hawaiian Legal Corporation, Hawaii's Thousand Friends, and Na Lolo No Na Kanaka -- the Lawyers for the People of Hawaii.

Your Committee finds:

1) Access to legal services for the poor and advocacy in the public interest are essential if the rights, benefits, protections and obligations provided for by law are to be enforced equally among all persons in the State; and

2) There is a pressing need for access to the justice system for the poor; and

3) The legal profession, in its Code of Professional Responsibility, has recognized the obligation of every lawyer to provide legal services to the disadvantaged and, where individual efforts cannot meet the need, to support legal services programs; and

4) Those who staff public interest law programs, notoriously overworked and underpaid, have through their commitment to the community made significant contributions, yet have received little positive recognition for their efforts.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 100 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 763-84 Transportation on S.R. No. 69

The purpose of this resolution is to request the Department of Transportation (DOT) to designate a specific area for use by yacht charter operations and to adopt rules for yacht charter operations.

Your Committee is in agreement with the intent of the resolution but has amended the language to reflect the impending renovation of Kewalo basin.

Your Committee has amended the resolution by:

1) Deleting the second, fourth, fifth, and sixth "WHEREAS" clauses and the first, second and third "BE IT RESOLVED" clauses;

2) Adding four new "WHEREAS" clauses explaining the role of the yacht charter industry and Kewalo Basin, the effect of DOT administrative rules regarding Kewalo Basin, and impending renovations at Kewalo Basin;

3) Amending the language of the third and seventh "WHEREAS" clauses for purposes of clarity;

- 4) Adding four new "BE IT RESOLVED" clauses:
 - A) Requesting DOT to review present and proposed harbor improvement projects in the metropolitan Honolulu area and to study, designate and plan for appropriate yacht charter operations;
 - B) Requesting DOT to review its rules and revise as needed rules regarding "bare boat" chartering and yacht charter operations;
 - C) Requesting DOT to undertake efforts to minimize impediments to existing yacht charter operations; and
 - D) Requiring DOT to report to the Legislature on the requests of this resolution not less than twenty days prior to the convening of the Regular Legislative Session of 1985;
- 5) Adding the Director of Planning and Economic Development to the list of those to receive certified copies of this Resolution; and
- 6) Modifying the title to reflect the previous amendments.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 69, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 69, S.D. 1.

Signed by all members of the Committee except Senator Solomon.

SCRep. 764-84 Health on S.R. No. 170

The purpose of this resolution is to request the Legislative Reference Bureau to study the feasibility of establishing a state Environmental Protection Agency, or similar body, to coordinate and address matters of environmental quality.

Hawaii's current move into the field of high technology presents a great likelihood that the hazardous and toxic substances used by these industries may endanger the public health, safety, and well-being. A joint House-Senate interim report indicates that in light of these real and impending risks, there is a great need for coordinating and reorganizing state environmental monitoring and risk assessment functions, and the Council of State Governments reports that thirty-one states have already established environmental protection bodies of one kind or another.

Your Committee received testimony in support of this resolution from the Office of Environmental Quality and the Environmental Council and finds that environmental issues will continue to be in the forefront for many years to come. Therefore, it is appropriate at this time to examine the feasibility of consolidating environmental programs and responsibilities into one body and to encourage greater cooperation among existing agencies. Your Committee wishes to stress that every aspect of the environment is interrelated and connected in some form or other, and that a coordinated approach involving all aspects of government and private industry, is the only feasible method for confronting, managing, and eliminating environmental problems in our State.

Your Committee on Health concurs with the intent and purpose of S.R. No. 170, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 765-84 Health on S.C.R. No. 135

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study the feasibility of establishing a state Environmental Protection Agency, or similar body, to coordinate and address matters of environmental quality.

Hawaii's current move into the field of high technology presents a great likelihood that the hazardous and toxic substances used by these industries may endanger the public health, safety, and well-being. A joint House-Senate interim report indicates that in light of these real and impending risks, there is a great need for coordinating and reorganizing state environmental monitoring

and risk assessment functions, and the Council of State Governments reports that thirty-one states have already established environmental protection bodies of one kind or another.

Your Committee received testimony in support of this concurrent resolution from the Office of Environmental Quality and the Environmental Council and finds that environmental issues will continue to be in the forefront for many years to come. Therefore, it is appropriate at this time to examine the feasibility of consolidating environmental programs and responsibilities into one body and to encourage greater cooperation among existing agencies. Your Committee wishes to stress that every aspect of the environment is interrelated and connected in some form or other, and that a coordinated approach involving all aspects of government and private industry, is the only feasible method for confronting, managing, and eliminating environmental problems in our State.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 135, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 766-84 Economic Development on S.C.R. No. 84

The purpose of this concurrent resolution is to urge the U.S. Congress to approve pending legislation that would increase from \$250 to \$1,000 the informal entry limitation for imported goods.

Current regulations of the U.S. Treasury Department impose a \$250 limit on informal entry for imported goods. This limitation has become inadequate in light of inflation and the devaluation of the American dollar.

Senator Spark Matsunaga has introduced legislation which would amend the Tariff Act of 1930 to raise the maximum amount for informal entry of imported goods to \$1,000. The text of Senator Matsunaga's proposal has been incorporated into H.R. 3398 by the Senate Committee on Finance and is presently awaiting approval by the U.S. Congress. The U.S. Treasury Department supported this proposed legislation when it was introduced in the 96th and 97th Congress.

The effect of the proposed legislation are as follows:

(1) This proposal would change the maximum limit for INFORMAL entries only. The FORMAL entry procedures would remain unchanged.

(2) This proposal would not change the AMOUNT of duty collected.

(3) This proposal would reduce the amount of administrative burden on the international trader as well as the U.S. Treasury Department and the U.S. Customs Service.

(4) This proposal updates the fiscal appropriateness of our country's regulations concerning international commerce. The present limit of \$250 is a limit that was set in the early 1950's and is no longer appropriate.

Your Committee finds that the proposed legislation would be beneficial to international trade and travel which is an integral part of Hawaii's economy.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 84 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 767-84 Economic Development on S.R. No. 94

The purpose of this resolution is to urge the U.S. Congress to approve pending legislation that would increase from \$250 to \$1,000 the informal entry limitation for imported goods.

Current regulations of the U.S. Treasury Department impose a \$250 limit on informal entry for imported goods. This limitation has become inadequate in light of inflation and the devaluation of the American dollar.

Senator Spark Matsunaga has introduced legislation which would amend the Tariff Act of 1930 to raise the maximum amount for informal entry of imported goods to \$1,000. The text of Senator Matsunaga's proposal has been incorporated into H.R. 3398 by the Senate Committee on Finance and is presently awaiting approval by the U.S. Congress. The U.S. Treasury Department supported this proposed legislation when it was introduced in the 96th and 97th Congress.

The effect of the proposed legislation are as follows:

(1) This proposal would change the maximum limit for INFORMAL entries only. The FORMAL entry procedures would remain unchanged.

(2) This proposal would not change the AMOUNT of duty collected.

(3) This proposal would reduce the amount of administrative burden on the international trader as well as the U.S. Treasury Department and the U.S. Customs Service.

(4) This proposal updates the fiscal appropriateness of our country's regulations concerning international commerce. The present limit of \$250 is a limit that was set in the early 1950's and is no longer appropriate.

Your Committee finds that the proposed legislation would be beneficial to international trade and travel which is an integral part of Hawaii's economy.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 94 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 768-84 Economic Development on S.C.R. No. 37

The purpose of this concurrent resolution is to request the University of Hawaii Sea Grant Program to conduct a comprehensive study on Hawaiian fisheries.

The Sea Grant College Program at the University of Hawaii is a unit of the Federal National Oceanic and Atmospheric Administration, Department of Commerce, which provides federal funding to marine-related research at the University. In recent investigations of the Northwestern Hawaiian Islands, funds of the Sea Grant College Program supported the University of Hawaii's efforts to assist research by state and federal agencies (National Marine Fisheries Service and U.S. Fish and Wildlife Service). The Sea Grant College Program supported the University of Hawaii's studies of the productivity of waters and coral reefs in the Hawaiian Archipelago, economics and environmental values, and policymaking in managing fisheries, and the University's coordination of two symposiums to present research results.

Your Committee heard testimony from Mr. Jack Davidson, Director of the Sea Grant College Program who indicated that since the Program's funds are committed through May 31, 1985, they are not in a position to carry out a comprehensive study. Mr. Davidson pointed out, however, that they are prepared to fulfill the intent of the resolution by:

1. Coordinating with all agencies involved in fishery research and development in Hawaii, including federal agencies, to identify all on-going and proposed activities.

2. Working in cooperation with public and private agencies as well as interested user or consumer groups to identify emerging needs.

3. Assess the parameters for a comprehensive analysis, including the identification of areas needing intensive study and action.

4. Presenting a progress report of planning activities and preliminary studies to the Thirteenth Legislature, Regular Session of 1985.

Your Committee, upon consideration of Sea Grant College Program's present capabilities and workload, has amended the resolution to delete the word "comprehensive" in the BE IT RESOLVED clause, and the words "full scale" in the

first BE IT FURTHER RESOLVED clause. These amendments would permit the Sea Grant College Program to perform those activities outlined above in furtherance of the intent of this resolution without requiring a comprehensive, in-depth study.

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

Signed by all members of the Committee.

SCRep. 769-84 Economic Development on S.R. No. 43

The purpose of this resolution is to request the University of Hawaii Sea Grant Program to conduct a comprehensive study on Hawaiian fisheries.

The Sea Grant College Program at the University of Hawaii is a unit of the Federal National Oceanic and Atmospheric Administration, Department of Commerce, which provides federal funding to marine-related research at the University. In recent investigations of the Northwestern Hawaiian Islands, funds of the Sea Grant College Program supported the University of Hawaii's efforts to assist research by state and federal agencies (National Marine Fisheries Service and U.S. Fish and Wildlife Service). The Sea Grant College Program supported the University of Hawaii's studies of the productivity of waters and coral reefs in the Hawaiian Archipelago, economics and environmental values, and policymaking in managing fisheries, and the University's coordination of two symposiums to present research results.

Your Committee heard testimony from Mr. Jack Davidson, Director of the Sea Grant College Program who indicated that since the Program's funds are committed through May 31, 1985, they are not in a position to carry out a comprehensive study. Mr. Davidson pointed out, however, that they are prepared to fulfill the intent of the resolution by:

1. Coordination with all agencies involved in fishery research and development in Hawaii, including federal agencies, to identify all on-going and proposed activities.
2. Working in cooperation with public and private agencies as well as interested user or consumer groups to identify emerging needs.
3. Assess the parameters for a comprehensive analysis, including the identification of areas needing intensive study and action.
4. Presenting a progress report of planning activities and preliminary studies to the Thirteenth Legislature, Regular Session of 1985.

Your Committee, upon consideration of Sea Grant College Program's present capabilities and workload, has amended the resolution to delete the word "comprehensive" in the BE IT RESOLVED clause, and the words "full scale" in the first BE IT FURTHER RESOLVED clause. These amendments would permit the Sea Grant College Program to perform those activities outlined above in furtherance of the intent of this resolution without requiring a comprehensive, in-depth study.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 43, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 43, S.D. 1.

Signed by all members of the Committee.

SCRep. 770-84 Education on Gov. Msg. Nos. 143, 148, 248, 249, 304 and
305

Recommending that the Senate advise and consent to the nominations of the following:

LUCILLE B. COOPER to the State Foundation on Culture and the Arts, for a term ending December 31, 1987;

WILLA F. TANAKA to the Board of Public Broadcasting, for a term ending December 31, 1989;

KATHARINE T. CANNON EGER to the Library Advisory Commission, County of Maui, for a term ending December 31, 1987;

ROCHELLE LEE GREGSON to the Board of Public Broadcasting, for a term ending December 31, 1984;

AL HARRINGTON and TERUO IHARA, Ph.D., to the Board of Public Broadcasting, for terms ending December 31, 1989;

MASARU YOKOUCHI and NANCY KENNEDY to the State Foundation on Culture and the Arts, for terms ending December 31, 1987;

HARRY A. MATTSON to the State Foundation on Culture and the Arts, for a term ending December 31, 1985; and

DANETTE K. RAYFORD and HELEN K. MATTHEWS to the Library Advisory Commission, City and County of Honolulu, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 771-84 Tourism on Gov. Msg. No. 310

Recommending that the Senate advise and consent to the nomination of ROBERT A. MCFARLANE and HENRY S. KIBOTA to the Stadium Authority, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 772-84 Judiciary on H.B. No. 789

The purpose of this bill is to amend section 576-35.5, Hawaii Revised Statutes, to permit the clerk of the court to send by regular mail, rather than by certified or registered mail, notices of foreign court orders to pay support.

Currently, the recipient of a support order from a different state registers it with the clerk of court. Upon registration, the foreign support order has the same force and effect as a Hawaii support order, and the payor is legally responsible for payments. The clerk then sends, by certified or registered mail, a notice of registration to the payor.

Your Committee received testimony from the state Judiciary in support of this bill. This bill is recommended by the Chief Clerks of the four judicial circuits of the State.

Your Committee was assured by the state Judiciary that adequate steps will be taken to make sure the payor received the notice. The Judiciary will send the notice by registered or certified mail if no response is received or the letter is returned. If this second step is also unsuccessful, it will attempt telephone contact or use other means to insure the payor receives the notice.

Your Committee finds that sending notices by regular mail reduces postage fees and clerical time. It is also satisfied that the rights of the payor to be duly notified are protected.

Your Committee on Judiciary is in accord with the intent and purpose of H. B. No. 789, 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. 773-84 Judiciary on S.R. No. 135

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study of tort laws of this state and other states and to request the Hawaii Academy of Plaintiff's Attorneys to conduct a workshop on tort law for legislators.

Your Committee has received an increase in the number of concerns relating to tort claims and costs of tort litigation. However, your Committee is unable to understand and comprehend the full extent of these concerns because of its

lack of knowledge and experience on the issue.

Your Committee finds that a study of problems and issues in tort laws is appropriate at this time. Your Committee further finds that a workshop for legislators is also appropriate. It intends that this workshop be a brief overview of tort law and concepts for lay persons.

Your Committee amended the resolution to:

1) request an examination encompassing all of the problems and issues in the area of tort claims. Your Committee finds that limiting the study as was described in the original concurrent resolution will not address all the concerns expressed by interested parties to the Legislature in recent years; and

2) specify that the William S. Richardson School of Law, the Judiciary, the Hawaii Academy of Plaintiffs' Attorneys, the Hawaii State Bar Association, and representatives of defense attorneys, including attorneys from the Office of the Attorney General and the county Corporation Counsel, conduct the study to identify areas where significant problems and issues exist such that further examination and review is needed, and to recommend a plan of study for problems and issues that may be priority concerns. Your Committee believes this group of experienced practitioners and experts will offer a more practical and thorough study of tort laws.

Your Committee concurs with the intent and purpose of S.R. No. 135, as amended herein, and recommends referral to the Committee on Legislative Management in the form attached hereto as S.R. No. 135, S.D. 1.

Signed by all members of the Committee.

SCRep. 774-84 Judiciary on S.C.R. No. 114

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study of tort laws of this state and other states and to request the Hawaii Academy of Plaintiff's Attorneys to conduct a workshop on tort law for legislators.

Your Committee has received an increase in the number of concerns relating to tort claims and costs of tort litigation. However, your Committee is unable to understand and comprehend the full extent of these concerns because of its lack of knowledge and experience on the issue.

Your Committee finds that a study of problems and issues in tort laws is appropriate at this time. Your Committee further finds that a workshop for legislators is also appropriate. It intends that this workshop be a brief overview of tort law and concepts for lay persons.

Your Committee amended the concurrent resolution to:

1) request an examination encompassing all of the problems and issues in the area of tort claims. Your Committee finds that limiting the study as was described in the original concurrent resolution will not address all the concerns expressed by interested parties to the Legislature in recent years; and

2) specify that the William S. Richardson School of Law, the Judiciary, the Hawaii Academy of Plaintiffs' Attorneys, the Hawaii State Bar Association, and representatives of defense attorneys, including attorneys from the Office of the Attorney General and the county Corporation Counsel, conduct the study to identify areas where significant problems and issues exist such that further examination and review is needed, and to recommend a plan of study for problems and issues that may be priority concerns. Your Committee believes this group of experienced practitioners and experts will offer a more practical and thorough study of tort laws.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 114, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 114, S.D. 1.

Signed by all members of the Committee.

SCRep. 775-84 Judiciary on S.R. No. 118

The purpose of this resolution is to designate the week beginning May 6, 1984 as "Hawaii Correctional Officers' Week".

Your Committee finds that the professionalism, courage, and tenacity of the men and women who work in Hawaii's correctional facilities is a matter worthy of special legislative attention.

Your Committee further finds that the United States Senate and House of Representatives have passed a joint resolution in which the President of the United States has designated the week beginning May 6, 1984 as "National Correctional Week". The Hawaii State Legislature should recognize its state correctional officers and designate the week beginning May 6, 1984 as "Hawaii Correctional Officers' Week".

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 118 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 776-84 Judiciary on S.C.R. No. 95

The purpose of this concurrent resolution is to designate the week beginning May 6, 1984 as "Hawaii Correctional Officers' Week".

Your Committee finds that the professionalism, courage, and tenacity of the men and women who work in Hawaii's correctional facilities is a matter worthy of special legislative attention.

Your Committee further finds that the United States Senate and House of Representatives have passed a joint resolution in which the President of the United States has designated the week beginning May 6, 1984 as "National Correctional Week". The Hawaii State Legislature should recognize its state correctional officers and designate the week beginning May 6, 1984 as "Hawaii Correctional Officers' Week".

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 95 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 777-84 Judiciary on S.R. No. 117

The purpose of this resolution is 1) to encourage all victim and witness assistance programs and services to improve their relationships and coordinate their efforts and resources, and 2) to request the Legislative Reference Bureau to expand its current study of victim-witness legislation to include a comparison study of this state's and other states' victim compensation laws.

Your Committee finds that in the past victims and witnesses of crime received very little attention and resources compared to the perpetrators of crime. Your Committee has attempted to remedy this problem by supporting and promoting various victim-witness programs and services and considering many victim-witness rights bills. However, your Committee is concerned about the apparent areas of conflict between the different victim-witness programs, which have expressed their competing and divergent interests to the Legislature.

Your Committee therefore hopes to foster a stronger spirit of cooperation among the victim-witness programs so they will be better able to serve victims and witnesses. One way to do this, as proposed by this resolution, is to conduct a review of Hawaii's and other states' victim-witness and victim compensation laws to find common areas where services can be improved and coordinated.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 117 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Holt.

SCRep. 778-84 Judiciary on S.C.R. No. 94

The purpose of this concurrent resolution is 1) to encourage all victim and witness assistance programs and services to improve their relationships and coordinate their efforts and resources, and 2) to request the Legislative Reference Bureau to expand its current study of victim-witness legislation to include a comparison study of this state's and other states' victim compensation laws.

Your Committee finds that in the past victims and witnesses of crime received very little attention and resources compared to the perpetrators of crime. Your Committee has attempted to remedy this problem by supporting and promoting various victim-witness programs and services and considering many victim-witness rights bills. However, your Committee is concerned about the apparent areas of conflict between the different victim-witness programs, which have expressed their competing and divergent interests to the Legislature.

Your Committee therefore hopes to foster a stronger spirit of cooperation among the victim-witness programs so they will be better able to serve victims and witnesses. One way to do this, as proposed by this concurrent resolution, is to conduct a review of Hawaii's and other states' victim-witness and victim compensation laws to find common areas where services can be improved and coordinated.

Your Committee concurs with the intent and purpose of S.C.R. No. 94 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 779-84 Consumer Protection and Commerce on Gov. Msg. Nos. 237,
238, 239, 240, 241, 243, 244 and 274

Recommending that the Senate advise and consent to the nominations of the following:

HOWARD K. TAMASHIRO to the Board of Hearing Aid Dealers and Fitters, for a term ending December 31, 1987;

GEORGE KIMATA, M.D., to the Board of Hearing Aid Dealers and Fitters, for a term ending December 31, 1984;

CAROLYN U. CANUBIDA to the Board of Hearing Aid Dealers and Fitters, for a term ending December 31, 1986;

WILLIAM NEIL RAPOZO to the Motor Vehicle Industry Licensing Board, for a term ending December 31, 1987;

ADRIAN P. AWAI and WILL E. MIYAKE to the Motor Vehicle Repair Industry Board, for terms ending December 31, 1987;

TOMI S. HAEHNLEN and ROBERT B. DESUACIDO to the State Board of Nursing, for terms ending December 31, 1986;

SYLVIA KAREN SHIMONISHI to the Board of Pharmacy, for a term ending December 31, 1987;

PETER N. YANAGAWA and DOUGLAS R. SODETANI to the Real Estate Commission, for terms ending December 31, 1987;

ROGER M. KONDO, D.V.M., to the Board of Veterinary Examiners, for a term ending December 31, 1987; and

DONALD D. CHAPMAN to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for terms ending December 31, 1987.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 780-84 Consumer Protection and Commerce on Gov. Msg. Nos. 233,
280, 281, 282, 283 and 284

Recommending that the Senate advise and consent to the nominations of the following:

HARVEY T. SATO, D.C., to the Board of Chiropractic Examiners, for a term ending December 31, 1987;

FRANCIS R. BORGES to the Elevator Mechanics Licensing Board, for a term ending December 31, 1987;

EDWIN H. NAKANO to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for a term ending December 31, 1987;

CHRISTIAN L. GULBRANDSEN, M.D., to the Board of Medical Examiners, for a term ending December 31, 1987;

EDWARD AIKO TANAKA, Sr., to the Pest Control Board, for a term ending December 31, 1987; and

KENNETH A. BOHLIN to the Board of Pilot Commissioners, for a term ending December 31, 1985.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 781-84 Consumer Protection and Commerce on S.R. No. 24

The purpose of this resolution is to request the Legislative Auditor to conduct a comprehensive study of all of the insurance laws of Hawaii and connected federal laws affecting Hawaii's insurance laws.

Recently, the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA), in response to House Concurrent Resolution No. 91-83, entitled "House Concurrent Resolution Requesting a Study of the Necessity and Feasibility of a Comprehensive Review of the Hawaii Insurance Laws", concluded that a comprehensive review of Hawaii's insurance laws is necessary and feasible. This resolution is in response to that finding and requests the study recommended by the DCCA.

Your Committee heard favorable testimony from the DCCA, the Hawaii Insurers Council, the Hawaii State Association of Life Underwriters and the Hawaii Independent Insurance Agents Association strongly supporting the intent of this resolution.

After due consideration, your Committee has amended the resolution by:

- (1) Adding a new "WHEREAS" clause, before the "BE IT RESOLVED" clause, which explains that the proposed study is estimated to cost approximately \$250,000;
- (2) Amending the second "BE IT FURTHER RESOLVED" clause to provide that the Insurance Commissioner or representative thereof shall serve as a member on any board or commission formed because of this resolution;
- (3) Adding a new "BE IT FURTHER RESOLVED" clause after the second "BE IT FURTHER RESOLVED" clause to request that the Insurance Commissioner analyze the results of recent comprehensive reviews and revisions of the insurance laws of certain other states;
- (4) Adding a new "BE IT FURTHER RESOLVED" clause after the new "BE IT FURTHER RESOLVED" clause to request that the Senate Committees on Legislative Management and Ways and Means identify funds which may be available for the proposed study; and
- (5) Adding the Chairman of the Senate Committee on Legislative Management and the Chairman of the Senate Committee on Ways and Means as persons to receive certified copies of the resolution.

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

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 24, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 24, S.D. 1.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 782-84 Consumer Protection and Commerce on S.C.R. No. 14

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a comprehensive study of all of the insurance laws of Hawaii and connected federal laws affecting Hawaii's insurance laws.

Recently, the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA), in response to House Concurrent Resolution No. 91-83, entitled "House Concurrent Resolution Requesting a Study of the Necessity and Feasibility of a Comprehensive Review of the Hawaii Insurance Laws", concluded that a comprehensive review of Hawaii's insurance laws is necessary and feasible. This resolution is in response to that finding and requests the study recommended by the DCCA.

Your Committee heard favorable testimony from the DCCA, the Hawaii Insurers Council, the Hawaii State Association of Life Underwriters and the Hawaii Independent Insurance Agents Association strongly supporting the intent of this resolution.

After due consideration, your Committee has amended the concurrent resolution by:

- (1) Adding a new "WHEREAS" clause, before the "BE IT RESOLVED" clause, which explains that the proposed study is estimated to cost approximately \$250,000;
- (2) Amending the second "BE IT FURTHER RESOLVED" clause to provide that the Insurance Commissioner or representative thereof shall serve as a member on any board or commission formed because of this concurrent resolution;
- (3) Adding a new "BE IT FURTHER RESOLVED" clause after the second "BE IT FURTHER RESOLVED" clause to request that the Insurance Commissioner analyze the results of recent comprehensive reviews and revisions of the insurance laws of certain other states;
- (4) Adding a new "BE IT FURTHER RESOLVED" clause after the new "BE IT FURTHER RESOLVED" clause to request that the Senate and House Committees on Legislative Management, the Senate Committee on Ways and Means and the House Committee on Finance identify funds which may be available for the proposed study; and
- (5) Adding the Chairmen of the House and Senate Committees mentioned in item (4) above as persons to receive certified copies of this concurrent resolution.

Your Committee has further amended the concurrent resolution by making 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. 14, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 14, S.D. 1.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 783-84 Consumer Protection and Commerce on S.R. No. 61

The purpose of this resolution was to request the Attorney General and the Contractors License Board to enforce Act 274, Session Laws of Hawaii 1983.

Act 274 seeks to protect Hawaii's construction industry and blue-collar union workers from loss of revenues and unemployment due to activities of unlicensed contractors by including in the definition of "contractor", section 444-1(3), HRS, "any person, general engineering, general building, or speciality contractor who performs construction as defined in section 444-1(2) directly or indirectly for the federal government." In effect, this law requires a contractor engaged in public works projects for the federal government to be licensed under state law. The Attorney General, however, refuses to enforce Act 274 because of potential conflict with federal interests and because it creates an

additional burden for contractors who contract with the federal government by requiring qualifications in addition to those which the federal government has deemed sufficient.

This resolution, as received by your Committee, would have requested the Attorney General and the Contractors License Board to enforce Act 274 and to defend it vigorously if it were challenged. However, after considering testimony by the Attorney General and in light of the apparent conflict with federal interests, your Committee finds that the correct way of pursuing this matter is by exploring the possibility of seeking a declaratory judgment in federal court as to the constitutionality of Act 274, rather than enforcing the mandates of the Act. Your Committee has amended the title and language of the resolution accordingly.

Your Committee has further amended the resolution by making minor language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 61, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 61, S.D. 1.

Signed by all members of the Committee except Senator Chang.

SCRep. 784-84 Consumer Protection and Commerce on S.C.R. No. 53

The purpose of this concurrent resolution was to request the Attorney General and the Contractors License Board to enforce Act 274, Session Laws of Hawaii 1983.

Act 274 seeks to protect Hawaii's construction industry and blue-collar union workers from loss of revenues and unemployment due to activities of unlicensed contractors by including in the definition of "contractor", section 444-1(3), HRS, "any person, general engineering, general building, or speciality contractor who performs construction as defined in section 444-1(2) directly or indirectly for the federal government." In effect, this law requires a contractor engaged in public works projects for the federal government to be licensed under state law. The Attorney General, however, refuses to enforce Act 274 because of potential conflict with federal interests and because it creates an additional burden for contractors who contract with the federal government by requiring qualifications in addition to those which the federal government has deemed sufficient.

This concurrent resolution, as received by your Committee, would have requested the Attorney General and the Contractors License Board to enforce Act 274 and to defend it vigorously if it were challenged. However, after considering testimony by the Attorney General and in light of the apparent conflict with federal interests, your Committee finds that the correct way of pursuing this matter is by exploring the possibility of seeking a declaratory judgment in federal court as to the constitutionality of Act 274, rather than enforcing the mandates of the Act. Your Committee has amended the title and language of the concurrent resolution accordingly.

Your Committee has further amended the concurrent resolution by making minor language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 53, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 53, S.D. 1.

Signed by all members of the Committee except Senator Chang.

SCRep. 785-84 Consumer Protection and Commerce on S.R. No. 70

The purpose of this resolution is to request the Department of Commerce and Consumer Affairs (DCCA) to submit a report on the administrative support the DCCA provides to boards and commissions subject to the sunset law.

Your Committee finds that administrative support for boards and commissions under the DCCA is crucial for the effective discharge of the boards and commissions duties and responsibilities. Your Committee notes, however, that the Legislature is rarely able to properly review the department's administrative

support of these boards and commissions.

Your Committee finds that a review of the administrative support provided by the DCCA is needed and necessary for efficient management and to prevent overlap of functions. This will assist the Legislature to oversee regulatory activities.

Your Committee heard favorable testimony from the DCCA supporting the intent of the resolution, however, requesting that the determination of compliance fund revenues related to expenditures and the roles of intake specialists be included in its annual report of the compliance resolution fund to the Governor and the Legislature.

Your Committee supports the DCCA's request and has amended the resolution to reflect the recommendations. Your Committee has also amended the resolution by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 70, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 70, S.D. 1.

Signed by all members of the Committee except Senator Uwaine.

SCRep. 786-84 Consumer Protection and Commerce on S.C.R. No. 59

The purpose of this concurrent resolution is to request the Department of Commerce and Consumer Affairs (DCCA) to submit a report on the administrative support the DCCA provides to boards and commissions subject to the sunset law.

Your Committee finds that administrative support for boards and commissions under the DCCA is crucial for the effective discharge of the boards and commissions duties and responsibilities. Your Committee notes, however, that the Legislature is rarely able to properly review the department's administrative support of these boards and commissions.

Your Committee finds that a review of the administrative support provided by the DCCA is needed and necessary for efficient management and to prevent overlap of functions. This will assist the Legislature to oversee regulatory activities.

Your Committee heard favorable testimony from the DCCA supporting the intent of the resolution, however, requesting that the determination of compliance fund revenues related to expenditures and the roles of intake specialists be included in its annual report of the compliance resolution fund to the Governor and the Legislature.

Your Committee supports the DCCA's request and has amended the concurrent resolution to reflect the recommendations. Your Committee has also amended the concurrent resolution by making 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. 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 Uwaine.

SCRep. 787-84 Consumer Protection and Commerce on H.B. No. 2053-84

The purpose of this bill is to permit settlement of any claim against the Real Estate Recovery Fund (Fund) to be made with the agreement of a majority of the Real Estate Commission (Commission) when they consider settlement in the best interest of the Fund.

Under current law, settlement of any claim against the Fund can be made only with the unanimous agreement of the Commission, the Director of Commerce and Consumer Affairs and the Attorney General. This bill deletes the requirement that the Director of Commerce and Consumer Affairs and Attorney General agree to settlement of claims against the Fund and thus places the responsibility of settlement solely with the Commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2053-84 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 Uwaine.

SCRep. 788-84 Judiciary on S.R. No. 119

The purpose of this resolution is to request that the Family Court study present laws in Hawaii related to stepparents' duties and responsibilities with a view towards providing an equitable balance between a stepparent's duties and obligations to their stepchildren with concomitant rights and powers of the stepparents.

Your Committee finds that many stepparents provide their stepchildren with the same financial support, together with love, affection, and moral support as natural parents. However, present laws do not provide stepparents with any legal rights regarding their stepchildren.

Your Committee amended the resolution to provide that the Legislative Reference Bureau, in cooperation with the Office of Children and Youth and the Family Court, conduct studies relating to stepparents' duties and responsibilities. It further amended the resolution to allow for the participation in the study by all interested stepparents. The stepparents will be able to provide first hand knowledge and insight into this problem.

Your Committee on Judiciary 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.

SCRep. 789-84 Judiciary on S.C.R. No. 96

The purpose of this concurrent resolution is to request that the Family Court study present laws in Hawaii related to stepparents' duties and responsibilities with a view towards providing an equitable balance between a stepparent's duties and obligations to their stepchildren with concomitant rights and powers of the stepparents.

Your Committee finds that many stepparents provide their stepchildren with the same financial support, together with love, affection, and moral support as natural parents. However, present laws do not provide stepparents with any legal rights regarding their stepchildren.

Your Committee amended the concurrent resolution to provide that the Legislative Reference Bureau, in cooperation with the Office of Children and Youth and the Family Court, conduct studies relating to stepparents' duties and responsibilities. It further amended the concurrent resolution to allow for the participation in the study by all interested stepparents. The stepparents will be able to provide first hand knowledge and insight into this problem.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 96, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 96, S.D. 1.

Signed by all members of the Committee.

SCRep. 790-84 Judiciary on S.R. No. 120

The purpose of this resolution is to request:

(1) The Hawaii Criminal Justice Data Center (HCJDC) to identify the need for access to the Federal Bureau of Investigation's National Crime Information Center (NCIC) and the National Law Enforcement Telecommunications System (NLETS);

(2) The HCJDC and the Honolulu Police Department (HPD) to determine the legal and procedural factors that would be involved in transferring the NCIC and NLETS functions from the city to the state; and

(3) The HCJDC and the City Department of Data Systems (CDDS) and the State Department of Budget and Finance, Electronic Data Processing Division (EDPD) to identify the costs involved in starting and operating the NCIC and NLETS systems.

Your Committee received testimony recommending that the HCJDC be designated to coordinate the proposed review since the four independent departments, the HCJDC, HPD, CDDS, and EDPD of the State Department of Budget and Finance could be working at cross-purposes and not produce a unified approach.

Accordingly, your Committee has amended the resolution to specifically designate HCJDC as the coordinator amongst the agencies involved in the above review and to require only HCJDC to report to the Legislature.

The HCJDC, a State agency, was established in 1979 to serve as a data center for storing, disseminating, and analyzing criminal history information for the criminal justice system. The Data Center has expanded its role to include providing criminal justice information systems and the telecommunications network required to support access to information on state and local computer systems, criminal justice information sharing with other states, and access to the criminal justice files of the NCIC and NLETS. However, the HPD, a local agency, presently acts as the control terminal agency for both NCIC and NLETS.

Your Committee finds that the HCJDC is in the best position to assume the role as the control agency because its computer system already links all major criminal justice agencies in the State. Such coordination between the State, local, and federal government would maximize the utility of information, reduce costs, eliminate duplicated effort, and increase efficiency.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 120, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 120, S.D. 1.

Signed by all members of the Committee.

SCRep. 791-84 Judiciary on S.C.R. No. 97

The purpose of this concurrent resolution is to request:

(1) The Hawaii Criminal Justice Data Center (HCJDC) to identify the need for access to the Federal Bureau of Investigation's National Crime Information Center (NCIC) and the National Law Enforcement Telecommunications System (NLETS);

(2) The HCJDC and the Honolulu Police Department (HPD) to determine the legal and procedural factors that would be involved in transferring the NCIC and NLETS functions from the city to the state; and

(3) The HCJDC and the City Department of Data Systems (CDDS) and the State Department of Budget and Finance, Electronic Data Processing Division (EDPD) to identify the costs involved in starting and operating the NCIC and NLETS systems.

Your Committee received testimony recommending that the HCJDC be designated to coordinate the proposed review since the four independent departments, the HCJDC, HPD, CDDS, and EDPD of the State Department of Budget and Finance could be working at cross-purposes and not produce a unified approach.

Accordingly, your Committee has amended the concurrent resolution to specifically designate HCJDC as the coordinator amongst the agencies involved in the above review and to require only HCJDC to report to the Legislature.

The HCJDC, a State agency, was established in 1979 to serve as a data center for storing, disseminating, and analyzing criminal history information for the criminal justice system. The Data Center has expanded its role to include providing criminal justice information systems and the telecommunications network required to support access to information on state and local computer systems, criminal justice information sharing with other states, and access to

the criminal justice files of the NCIC and NLETS. However, the HPD, a local agency, presently acts as the control terminal agency for both NCIC and NLETS.

Your Committee finds that the HCJDC is in the best position to assume the role as the control agency because its computer system already links all major criminal justice agencies in the State. Such coordination between the State, local, and federal government would maximize the utility of information, reduce costs, eliminate duplicated effort, and increase efficiency.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 97, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 97, S.D. 1.

Signed by all members of the Committee.

SCRep. 792-84 Judiciary on S.R. No. 84

The purpose of this resolution is to urge the Department of Social Services and Housing (DSSH) to terminate its practice of holding non-criminal immigrant detainees in State facilities, and to request of DSSH and the Attorney General an assessment of the scope and implications of such practice.

Your Committee heard testimony in support of this measure from the American Civil Liberties Union, the Hawaii Council of Churches, the American Friends Service Committee, Na Loio No Na Kanaka, the Coalition to Defend Immigrant Rights, and several individuals from the community. Your Committee received written testimony in opposition to the resolution from the Immigration and Naturalization Service (INS).

Primary concerns raised during the hearing of this resolution were: 1) Non-criminal INS detainees, awaiting administrative civil proceedings, are held in Oahu Community Correctional Center (OCCC) pursuant to a contractual agreement between the State and Federal government and, 2) INS detainees held at OCCC charged with no criminal violation, are subjected to the degradation of imprisonment including body cavity searches, which are totally inappropriate and unjustifiable in such cases.

Your Committee finds that the practice of holding non-criminal immigrant detainees in State correctional facilities diverges from public policy and is morally questionable.

Accordingly, your Committee has amended this resolution by adding a clause which questions the constitutionality of this practice and a clause calling for the DSSH to demand that INS implement a classification system to distinguish between criminal and non-criminal detainees, and that the State incarcerate only criminal detainees at OCCC and other correctional facilities.

Your Committee has amended this resolution by deleting two clauses which were either redundant or unverified.

Your Committee has further amended this resolution by adding "correctional" on page 2, line 1, and "state" where reference is made to the State Attorney General for purposes of clarity.

Your Committee on Judiciary 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. 793-84 Judiciary on S.C.R. No. 76

The purpose of this concurrent resolution is to urge the Department of Social Services and Housing (DSSH) to terminate its practice of holding non-criminal immigrant detainees in State facilities, and to request of DSSH and the Attorney General an assessment of the scope and implications of such practice.

Your Committee heard testimony in support of this measure from the American Civil Liberties Union, the Hawaii Council of Churches, the American Friends Service Committee, Na Loio No Na Kanaka, the Coalition to Defend Immigrant

Rights, and several individuals from the community. Your Committee received written testimony in opposition to the concurrent resolution from the Immigration and Naturalization Service (INS).

Primary concerns raised during the hearing of this concurrent resolution were: 1) Non-criminal INS detainees, awaiting administrative civil proceedings, are held in Oahu Community Correctional Center (OCCC) pursuant to a contractual agreement between the State and Federal government and, 2) INS detainees held at OCCC charged with no criminal violation, are subjected to the degradation of imprisonment including body cavity searches, which are totally inappropriate and unjustifiable in such cases.

Your Committee finds that the practice of holding non-criminal immigrant detainees in State correctional facilities diverges from public policy and is morally questionable.

Accordingly, your Committee has amended this concurrent resolution by adding a clause which questions the constitutionality of this practice and a clause calling for the DSSH to demand that INS implement a classification system to distinguish between criminal and non-criminal detainees, and that the State incarcerate only criminal detainees at OCCC and other correctional facilities.

Your Committee has amended this resolution by deleting two clauses which were either redundant or unverified.

Your Committee has further amended this concurrent resolution by adding "correctional" on page 2, line 1, and "state" where reference is made to the State Attorney General for purposes of clarity.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 76, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 76, S.D. 1.

Signed by all members of the Committee.

SCRep. 794-84 Judiciary on S.R. No. 142

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a comprehensive study of Hawaii's age-specific laws, the reason for each law, and the consequent effect if the age in the law were changed.

Your Committee finds that many of our laws are based on age, with the corresponding presumption that one's maturity and intelligence are directly related to the years from one's birth. This presumption, as a general rule for all persons the same age, may be incorrect.

Some questions that the study should address are the following:

1. Why was age 18 chosen for the age at which one legally becomes an adult?
2. Do laws such as the drinking, driving, curfew, and child labor laws actually serve their protective purpose?

Your Committee hopes that such a study will stimulate an intelligent and educated debate on laws based on age, a subject which appears to be of current and popular community concern interest.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 142 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 795-84 Judiciary on S.C.R. No. 117

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a comprehensive study of Hawaii's age-specific laws, the reason for each law, and the consequent effect if the age in the law were changed.

Your Committee finds that many of our laws are based on age, with the corresponding presumption that one's maturity and intelligence are directly

related to the years from one's birth. This presumption, as a general rule for all persons the same age, may be incorrect.

Some questions that the study should address are the following:

1. Why was age 18 chosen for the age at which one legally becomes an adult?
2. Do laws such as the drinking, driving, curfew, and child labor laws actually serve their protective purpose?

Your Committee hopes that such a study will stimulate an intelligent and educated debate on laws based on age, a subject which appears to be of current and popular community concern and interest.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 117 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 796-84 Judiciary on S.R. No. 107

The purpose of this resolution is to request Congressional action to correct abuse of Chapter 11 bankruptcy petitions and to restore the intent of the Bankruptcy Reform Act of 1978.

Your Committee received favorable testimony in support of this resolution from members of the Hawaii Congressional delegation, representatives from the Hawaii State, AFL-CIO, I.L.W.U. and employees affected by Chapter 11 bankruptcy proceedings.

Your Committee finds that in a recent decision, National Labor Relations Board v. Bildisco, 682 F.2d 72 (3rd Cir. 1984), affirmed, 52 U.S.L.W. 4270 (U.S. Feb. 28, 1984) (Nos. 82-818 and 82-852) the United States Supreme Court held that union agreements may be rejected by a bankruptcy court if the debtor can show that the collective bargaining agreement burdens the state and that after careful scrutiny, the equities balance in favor of rejecting the labor contract. Bildisco, supra, at 4274. The United States Supreme Court also ruled that companies may unilaterally reject or modify union agreements after filing bankruptcy, but before court approval, without violating existing labor laws. Bildisco, supra, at 4277.

This decision gained national attention during the bankruptcy proceedings of Continental Airlines and prompted swift reaction by those concerned about "the rights of labor and the fundamental integrity of collective bargaining agreements". Currently there is legislation pending in the United States Congress which would essentially reverse this Supreme Court decision and it is this legislation for which strong Congressional action is sought.

Your Committee on Judiciary is in accord with the intent and purpose of S.R. No. 107, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 797-84 Judiciary on S.R. No. 115

The purpose of the Senate Resolution is to authorize the Honolulu Police Department and the Honolulu Department of the Prosecuting Attorney to conduct a study to assess the need for establishing a state crime laboratory.

Your Committee received testimony in support of this resolution from the Honolulu Police Department.

Your Committee finds that criminal investigations often require a sophisticated level of laboratory analysis which the county police crime laboratories are unable to provide. Further, while the Federal Bureau of Investigation (FBI) laboratory in Washington, D.C., provides technical analysis in criminal investigations; Hawaii's police departments are too far removed to receive timely service.

Your Committee concurs with the intent and purpose of S.R. No. 115 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 798-84 Judiciary S.C.R. No. 92

The purpose of the Senate Resolution is to authorize the Honolulu Police Department and the Honolulu Department of the Prosecuting Attorney to conduct a study to assess the need for establishing a state crime laboratory.

Your Committee received testimony in support of this resolution from the Honolulu Police Department.

Your Committee finds that criminal investigations often require a sophisticated level of laboratory analysis which the county police crime laboratories are unable to provide. Further, while the Federal Bureau of Investigation (FBI) laboratory in Washington, D.C., provides technical analysis in criminal investigations; Hawaii's police departments are too far removed to receive timely service.

Your Committee concurs with the intent and purpose of S.C.R. No. 92 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 799-84 Judiciary on S.R. No. 127

The purpose of this resolution is to request the Chief Justice of the Supreme Court of Hawaii, with the assistance of correctional state agencies, to assess the feasibility and implementation of home detention as an alternative to incarceration. Home detention could be allowed as a condition of suspended sentence, probation, or parole.

Your Committee received testimony in support of this measure from the American Civil Liberties Union (ACLU) and the State Department of Social Services and Housing (DSSH).

Your Committee finds that the alternative of home detention requires examination in light of the severe overcrowding in Hawaii's correctional facilities. Traditional approaches to the problem of overcrowding have included various forms of suspended sentences, probation, or parole. These approaches are sometimes unsatisfactory because the convicted person is unsupervised in the community. Home detention provides that practical alternative which is more restrictive than existing forms of probation and parole, yet short of incarceration in a correctional facility.

Under home detention, a person would be placed on suspended sentence, probation, or parole subject to the condition that the person remain within the person's own dwelling for the period specified by the court or paroling authority. Leaving the dwelling would be a clear and visible violation of the conditions of the suspended sentence, probation, or parole. Home detention is much cheaper for the State than incarceration, as convicted persons would be responsible for their own living expenses.

Home detention is clearly not appropriate in all cases. The convicted person at the very least would have to have a dwelling place and sources of support among family or friends. To prevent a drain on state resources through other means, persons under home detention would be prohibited from receiving public assistance.

Home detention would not be used as a substitute for incarceration where incarceration is required by law or otherwise needed. Home detention would be used only for the purpose of placing greater restrictions on persons otherwise eligible for suspended sentences, probation, or parole. Applied in this manner, home detention can increase community safety without adding to the cost or the overcrowding of the correctional facilities.

Your Committee made a technical, nonsubstantive amendment to this resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 127, as amended herein, and recommends the adoption in the form attached hereto as S.R. No. 127, S.D. 1.

Signed by all members of the Committee.

SCRep. 800-84 Judiciary on S.C.R. No. 106

The purpose of this concurrent resolution is to request the Chief Justice of the Supreme Court of Hawaii, with the assistance of correctional state agencies, to assess the feasibility and implementation of home detention as an alternative to incarceration. Home detention could be allowed as a condition of suspended sentence, probation, or parole.

Your Committee received testimony in support of this measure from the American Civil Liberties Union (ACLU) and the State Department of Social Services and Housing (DSSH).

Your Committee finds that the alternative of home detention requires examination in light of the severe overcrowding in Hawaii's correctional facilities. Traditional approaches to the problem of overcrowding have included various forms of suspended sentences, probation, or parole. These approaches are sometimes unsatisfactory because the convicted person is unsupervised in the community. Home detention provides that practical alternative which is more restrictive than existing forms of probation and parole, yet short of incarceration in a correctional facility.

Under home detention, a person would be placed on suspended sentence, probation, or parole subject to the condition that the person remain within the person's own dwelling for the period specified by the court or paroling authority. Leaving the dwelling would be a clear and visible violation of the conditions of the suspended sentence, probation, or parole. Home detention is much cheaper for the State than incarceration, as convicted persons would be responsible for their own living expenses.

Home detention is clearly not appropriate in all cases. The convicted person at the very least would have to have a dwelling place and sources of support among family or friends. To prevent a drain on state resources through other means, persons under home detention would be prohibited from receiving public assistance.

Home detention would not be used as a substitute for incarceration where incarceration is required by law or otherwise needed. Home detention would be used only for the purpose of placing greater restrictions on persons otherwise eligible for suspended sentences, probation, or parole. Applied in this manner, home detention can increase community safety without adding to the cost or the overcrowding of the correctional facilities.

Your Committee made a technical, nonsubstantive amendment to this concurrent resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 106, as amended herein, and recommends the adoption in the form attached hereto as S.C.R. No. 106, S.D. 1.

Signed by all members of the Committee.

SCRep. 801-84 Economic Development on H.C.R. No. 19

The purpose of this concurrent resolution is to adopt the State Agriculture Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and

private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Agriculture Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Agriculture Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee has further modified the plan by amending Exhibit A.

Your Committee has amended Exhibit A by:

- (1) Amending item (a) to correct reference to Recommendations Nos. 16, 17 and 18 to read Recommendations Nos. 17, 18 and 19.
- (2) Amending item (19), Implementing Action B(5)(c) to delete the word "where" and has added additional language to further clarify the intent of the implementing action.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Agriculture Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Agriculture Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 19, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 19, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 802-84 Economic Development on H.C.R. No. 20

The purpose of this concurrent resolution is to adopt the State Education Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Education Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Education Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee has further modified the plan by amending Exhibit A.

Your Committee has amended Exhibit A by:

- (1) Deleting the proposed language in item (5), "Potentially Competing Interests" relating to the location of the Kapiolani Community College. Though this is an issue for concern, it is not one that warrants major attention and focus at this time. Original language has been restored.
- (2) Amending item (18), relating to Implementing Action G.2.2. on page 17 to add the Office of Hawaiian Affairs as an implementing organization.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D. 1 to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Education Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Education Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 20, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 20, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 803-84 Economic Development on H.C.R. No. 21

The purpose of this concurrent resolution is to adopt the State Health Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Health Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Health Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee is in concurrence with the recommendations of the Senate Committee on Health as contained in Senate Standing Committee Report No. 651-84.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D.1, to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Health Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Health Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 21, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 21, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 804-84 Economic Development on H.C.R. No. 22

The purpose of this concurrent resolution is to adopt the State Water Resources Development Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Water Resources Development Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Water Resources Development Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee has further modified the plan by amending Exhibit A.

Your Committee made a technical change to Exhibit A which has no substantive effect.

Your Committee amended the concurrent resolution by:

- (1) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;
- (2) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, The Hawaii State Plan Act, referred to in this concurrent resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1, C.D. 1; and
- (3) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Water Resources Development Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, into law.

c Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Water Resources Development Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Water Resources Development Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 22, H.D. 1, as amended herein, and recommends its

adoption in the form attached hereto as H.C.R. No. 22, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 805-84 Economic Development on H.C.R. No. 23

The purpose of this concurrent resolution is to adopt the State Recreation Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Recreation Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Recreation Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee is in concurrence with the recommendations of the Senate Committee on Tourism as contained in Senate Standing Committee Report No. 645-84.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D.1, to reflect the current status of the bill.

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

Your Committee is concerned with the relationship between the State Recreation Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Recreation Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 23, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 23, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 806-84 Economic Development on H.C.R. No. 24

The purpose of this concurrent resolution is to adopt the State Conservation Lands Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of

twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current version of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Conservation Lands Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Conservation Lands Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee is in concurrence with the recommendations of House Committees on State General Planning and Water, Land Use, Development and Hawaiian Affairs as contained in the House Standing Committee Report No. 298-84.

Your Committee amended the concurrent resolution by:

- (1) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;
- (2) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1, C.D. 1; and
- (3) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Conservation Lands Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Conservation Lands Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Conservation Lands Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 24, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 24, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 807-84 Economic Development on H.C.R. No. 25

The purpose of this concurrent resolution is to adopt the State Historic Preservation Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Historic Preservation Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Historic Preservation Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee is in concurrence with the recommendations of the Senate Committee on Tourism as contained in Senate Standing Committee Report No. 644-84.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D.1 to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Historic Preservation Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Historic Preservation Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 25, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 25, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 808-84 Economic Development on H.C.R. No. 26

The purpose of this concurrent resolution is to adopt the State Tourism Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Tourism Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Tourism Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee has further modified the plan by amending Exhibit A.

Your Committee has amended Exhibit A by:

- (1) Amended item (5) by inserting new language for the Rationale paragraph to clarify the amendment to IMPLEMENTING ACTION B(1)(a).
- (2) Added a new item (7) amending IMPLEMENTING ACTION B(3)(e) to delete reference to an individual private sewage system and inserts

language to allow state and county approved sewage systems in remote destination areas.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D.1, to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Tourism Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Tourism Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 26, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 26, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki and Machida.

SCRep. 809-84 Economic Development on H.C.R. No. 27

The purpose of this concurrent resolution is to adopt the State Energy Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Energy Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Energy Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee is in concurrence with the recommendations of House Committees on State General Planning and Energy, Ecology, and Environmental Protection as contained in the House Standing Committee Report No. 301-84.

Your Committee amended the concurrent resolution by:

- (1) Amending the eighth WHEREAS clause to clarify the status of the Technical Reference Document;
- (2) Amending the BE IT RESOLVED clause and the second and third BE IT FURTHER RESOLVED clauses to clarify the intent that Chapter 226, Hawaii Revised Statutes, the Hawaii State Plan Act, referred to in this resolution, is to be amended by H.B. No. 177, H.D. 1, S.D. 1, C.D. 1; and
- (3) Adding two BE IT FURTHER RESOLVED clauses after the third BE IT FURTHER RESOLVED clause to clarify the intent that the adoption of the State Energy Functional Plan will only be effective on the enactment of H.B. No. 177, H.D. 1, S.D. 1, C.D. 1, into law.

Your Committee finds that these amendments are necessary to clarify the

purpose and role of the functional plans as guidelines in the accomplishment of State Plan objectives.

Your Committee is concerned with the relationship between the State Energy Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Energy Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 27, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 27, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 810-84 Economic Development on H.C.R. No. 28

The purpose of this concurrent resolution is to adopt the State Housing Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Housing Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Housing Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee has further modified the plan by amending Exhibit A.

Your Committee has amended Exhibit A by making a grammatical change to item (13) to include the word "and" in the proposed new language of the section entitled "Comments".

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D.1 to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Housing Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Housing Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 28, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 28, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 811-84 Economic Development on H.C.R. No. 29

The purpose of this concurrent resolution is to adopt the State Transportation Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Transportation Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Transportation Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee is in concurrence with the recommendations of the Senate Committee on Transportation as contained in Senate Standing Committee Report No. 691-84.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D.1, to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Transportation Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Transportation Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 29, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 29, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 812-84 Economic Development on H.C.R. No. 30

The purpose of this concurrent resolution is to adopt the State Higher Education Functional Plan for the State of Hawaii in furtherance of Chapter 226, Hawaii Revised Statutes.

In 1978 the Legislature passed the Hawaii State Planning Act, Chapter 226, Hawaii Revised Statutes, also referred to as The Hawaii State Plan. The Hawaii State Plan provides a long range guide for Hawaii's growth and development through the formulation of a broad framework of goals, objectives, policies and priority directions and establishes a statewide planning system. To achieve the stated goals and objectives, the Hawaii State Plan mandates the formulation of twelve functional plans to guide the programs and activities of state agencies and to improve coordination among state, county and private sector agencies and organizations.

The current versions of the State Functional Plans have been reviewed, revised and refined through continuous public scrutiny, general public and private sector input and debate, and ongoing review and evaluation by the twelve Functional Plan Advisory Committees and the State Plan Policy Council in

which the major issues and concerns relating to the functional areas have been thoroughly discussed.

After duly reviewing the State Higher Education Functional Plan of October 1982, along with the Findings and Recommendations of the State Plan Policy Council on the State Higher Education Functional Plan dated November 21, 1983, and the amendments made to the plan in Exhibit A, your Committee is in concurrence with the recommendations of the Senate Committee on Higher Education as contained in Senate Standing Committee Report No. 695-84.

Your Committee amended the concurrent resolution by changing all references to H.B. No. 177 to read as H.B. No. 177, H.D. 1, S.D. 1, C.D.1, to reflect the current status of the bill.

Your Committee is concerned with the relationship between the State Higher Education Functional Plan and Chapter 226, Hawaii Revised Statutes, and desires to make it clear that the functional plan shall serve only as guidelines for the State and counties. Accordingly, your Committee, upon due consideration, recommends adoption of the State Higher Education Functional Plan as a State functional plan for the State of Hawaii, to be effective only upon passage of H.B. No. 177, H.D.1, S.D. 1, C.D. 1, becoming law with or without the signature of the Governor.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 30, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 30, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki and Machida.

SCRep. 813-84 (Majority) Judiciary on H.B. No. 79

The purpose of this bill is to specify that only the circuit and district courts of the State will have jurisdiction to hear and determine certain civil actions by and against the State, authorized by Chapter 661, Hawaii Revised Statutes, and tort actions against the State, authorized by Chapter 662, Hawaii Revised Statutes.

The bill is a response to a case decided in federal court, In Re Holo Holo, 512 F.Supp. 889 (D. Haw. 1981). In that case, Hawaii Revised Statutes §662-3 was interpreted to extend jurisdiction of cases brought under the State Tort Liability Act to the federal district court. Your Committee finds that this interpretation is erroneous; therefore, an express declaration is necessary to limit tort and other certain civil actions brought under Chapters 661 and 662, Hawaii Revised Statutes, to state court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 79 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 Cobb.
Senator Cayetano did not concur.

SCRep. 814-84 Judiciary on S.C.R. No. 98

The purpose of this concurrent resolution is to request the Attorney General to conduct a study of the feasibility of a law which would permit corporations to represent themselves in legal proceedings.

Presently corporations are only able to represent themselves in court actions in small claims courts. In other courts, however, the costs of retaining an attorney for small corporations may be more than the amount at issue in the court case. Your Committee finds that there may be certain types of cases in which corporations could represent themselves pro se without detriment to the legal system.

Your Committee finds a study of this area is appropriate. The study should include, but not be limited to, resolving the following questions:

- (1) Whether the right of a corporation should be limited to certain types of

cases or certain types of proceedings such as those within the jurisdiction of the district court;

- (2) Whether this right should be available only to corporations of a certain type or size;
- (3) Who should be allowed to appear in court on behalf of the corporation;
- (4) Whether there should be a requirement that a corporation's bylaws specify who may represent the corporation in legal matters and under what circumstances;
- (5) What safeguards are necessary to protect the interests of stockholders of the corporation;
- (6) What statutory amendments would be needed to enact legislation empowering a corporation to represent itself in a court of law, including changes to the laws governing the unauthorized practice of law; and
- (7) Any other issues that may arise in the course of this study.

Your Committee amended the concurrent resolution to specify that the State Judiciary, with the assistance of the Attorney General, should conduct the study.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. 98, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. 98, S.D. 1.

Signed by all members of the Committee.

SCRep. 815-84 Judiciary on S.R. No. 121

The purpose of this resolution is to request the Attorney General to conduct a study of the feasibility of a law which would permit corporations to represent themselves in legal proceedings.

Presently corporations are only able to represent themselves in court actions in small claims courts. In other courts, however, the costs of retaining an attorney for small corporations may be more than the amount at issue in the court case. Your Committee finds that there may be certain types of cases in which corporations could represent themselves pro se without detriment to the legal system.

Your Committee finds a study of this area is appropriate. The study should include, but not be limited to, resolving the following questions:

- (1) Whether the right of a corporation should be limited to certain types of cases or certain types of proceedings such as those within the jurisdiction of the district court;
- (2) Whether this right should be available only to corporations of a certain type or size;
- (3) Who should be allowed to appear in court on behalf of the corporation;
- (4) Whether there should be a requirement that a corporation's bylaws specify who may represent the corporation in legal matters and under what circumstances;
- (5) What safeguards are necessary to protect the interests of stockholders of the corporation;
- (6) What statutory amendments would be needed to enact legislation empowering a corporation to represent itself in a court of law, including changes to the laws governing the unauthorized practice of law; and
- (7) Any other issues that may arise in the course of this study.

Your Committee amended the resolution to specify that the State Judiciary, with the assistance of the Attorney General, should conduct the study.

Your Committee on Judiciary concurs with the intent and purpose of S.R. 121, as amended herein, and recommends its adoption in the form attached hereto as S.R. 121, S.D. 1.

Signed by all members of the Committee.

SCRep. 816-84 Judiciary on S.C.R. No. 99

The purpose of this concurrent resolution is to request a study by Family Court on the use of mediation in child custody disputes.

Your Committee finds that mediation may be an effective means to assist parents to learn to work together to resolve what may otherwise turn into a bitter custody battle. Your Committee supports such services and recommends that they be implemented in as many custody disputes as possible.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 99 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 817-84 Judiciary on S.R. No. 113

The purpose of this resolution is to request a study by Family Court on the use of mediation in child custody disputes.

Your Committee finds that mediation may be an effective means to assist parents to learn to work together to resolve what may otherwise turn into a bitter custody battle. Your Committee supports such services and recommends that they be implemented in as many custody disputes as possible.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 113 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 818-84 Economic Development on S.R. No. 165

The purpose of this resolution is to request the Legislative Auditor, in cooperation with the Wildlife Management Institute, to review the forestry and wildlife organization.

It is the intent of this resolution to study ways to increase the efficiency and effectiveness of the Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife. Your Committee finds that there is concern over the lack of congruence between job descriptions and assignments, areas of responsibility and operational procedures.

The DLNR has recently completed a reorganization proposal which is under review by the Management Service Branch of the Department of Budget and Finance. Your Committee finds that a review of the Forestry and Wildlife Division by the Legislative Auditor would be consistent with, and would complement the reorganization proposal being reviewed.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 165 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 819-84 Economic Development on S.C.R. No. 130

The purpose of this concurrent resolution is to request the Legislative Auditor, in cooperation with the Wildlife Management Institute, to review the forestry and wildlife organization.

It is the intent of this concurrent resolution to study ways to increase the efficiency and effectiveness of the Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife. Your Committee finds that there is concern over the lack of congruence between job descriptions and assignments,

areas of responsibility and operational procedures.

The DLNR has recently completed a reorganization proposal which is under review by the Management Service Branch of the Department of Budget and Finance. Your Committee finds that a review of the Forestry and Wildlife Division by the Legislative Auditor would be consistent with, and would compliment the reorganization proposal being reviewed.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 130 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Machida.

SCRep. 820-84 Judiciary on S.R. No. 160

The purpose of this resolution is to request: (1) a study of the physiological effects alcohol has on young people, (2) a study on the incidence of driving accidents and injuries in the state related to the use of alcohol, (3) an evaluation of laws pertaining to the sale, transfer, and consumption of alcohol, (4) a study on the existing alcohol abuse education programs available to minors, and (5) a comprehensive report from various agencies, departments, and organizations on the use of alcohol by young people and the effects of alcohol thereof.

Your Committee finds that presently there is no comprehensive study on the use and effects of alcohol by young people. Alcohol consumption among Hawaii's young people is increasing and is causing considerable social problems. Hawaii's adolescent population is being hurt because the use of alcohol contributes to problems in schools, automobile accidents, involvement in crime and possible teenage alcoholism. This is an issue which the community - parents, schools, retail liquor establishments, law enforcement agencies and the Legislature must examine in depth.

Your Committee has amended the resolution by:

- (1) Changing the title from "minors" to "young people";
- (2) Deleting reference to the Hawaii Revised Statutes (281-101.5);
- (3) Increasing the number of agencies, departments and organizations requested to submit reports.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 160, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 160, S.D. 1.

Signed by all members of the Committee except Senator Cobb.

SCRep. 821-84 Judiciary on S.R. No. 161

The purpose of this resolution is to authorize the Senate Committee on Judiciary, in cooperation with the Judicial Selection Commission, to evaluate the State's judicial selection and retention system.

Your Committee finds that the selection and retention of highly qualified justices and judges is necessary to the fair and impartial dispensation of justice in our State. Judicial decisions substantially affect individual freedom, rights, and property.

Presently, Hawaii employs the merit selection process to choose its justices and judges. The Hawaii State Constitution establishes a Judicial Selection Commission composed of laypersons and lawyers selected in a nonpartisan manner by the Governor, Senate President, House Speaker, Chief Justice and members of the bar.

When vacancies arise in the judiciary, the Commission recommends nominees to the Governor. For each position, the Governor selects one candidate from the list of names submitted by the Commission. The Senate Judiciary Committee reviews the Governor's nomination in a public hearing and makes its recommendations to the Senate.

There are no clearly-stated evaluative criteria in our State Constitution or statutes by which the Senate Judiciary Committee may assess the nominees. Basic requirements concerning residency and licensure are set forth in Article VI, Section 3, of the Hawaii State Constitution. The Rules of the Supreme Court also set forth legal training requirements.

Further, there is no constitutional authority for the Senate to review candidates seeking reappointment to the judiciary. Your Committee believes it is necessary to require justices and judges seeking reappointment to undergo a thorough re-evaluation in order to ensure competent performance on the bench.

In light of these concerns, the study authorized herein will also include, but not be limited to, the roles and responsibilities of the Senate Committee on Judiciary and the Senate as a whole relating to advise and consent to judicial appointments, the feasibility of delegating to the Senate the authority to advise and consent to nominations for reappointment to the bench, and the development of statutory guidelines and policies for the selection and retention of judicial candidates.

Your Committee made technical, nonsubstantive amendments to the resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 161, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 161, S.D. 1.

Signed by all members of the Committee except Senator Cobb.

SCRep. 822-84 Judiciary on S.C.R. No. 125

The purpose of this concurrent resolution is to authorize the Senate Committee on Judiciary, in cooperation with the Judicial Selection Commission, to evaluate the State's judicial selection and retention system.

Your Committee finds that the selection and retention of highly qualified justices and judges is necessary to the fair and impartial dispensation of justice in our State. Judicial decisions substantially affect individual freedom, rights, and property.

Presently, Hawaii employs the merit selection process to choose its justices and judges. The Hawaii State Constitution establishes a Judicial Selection Commission composed of laypersons and lawyers selected in a nonpartisan manner by the Governor, Senate President, House Speaker, Chief Justice and members of the bar.

When vacancies arise in the judiciary, the Commission recommends nominees to the Governor. For each position, the Governor selects one candidate from the list of names submitted by the Commission. The Senate Judiciary Committee reviews the Governor's nomination in a public hearing and makes its recommendations to the Senate.

There are no clearly-stated evaluative criteria in our State Constitution or statutes by which the Senate Judiciary Committee may assess the nominees. Basic requirements concerning residency and licensure are set forth in Article VI, Section 3, of the Hawaii State Constitution. The Rules of the Supreme Court also set forth legal training requirements.

Further, there is no constitutional authority for the Senate to review candidates seeking reappointment to the judiciary. Your Committee believes it is necessary to require justices and judges seeking reappointment to undergo a thorough re-evaluation in order to ensure competent performance on the bench.

In light of these concerns, the study authorized herein will also include, but not be limited to, the roles and responsibilities of the Senate Committee on Judiciary and the Senate as a whole relating to advise and consent to judicial appointments, the feasibility of delegating to the Senate the authority to advise and consent to nominations for reappointment to the bench, and the development of statutory guidelines and policies for the selection and retention of judicial candidates.

Your Committee made technical, nonsubstantive amendments to the concurrent resolution.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 125, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.C.R. No. 125, S.D. 1.

Signed by all members of the Committee except Senator Cobb.

SCRep. 823-84 Health on Gov. Msg. Nos. 99, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 209, 210, 220, 251, 252, 253, 254, 255, 256, 258, 259, 260, 270, 275, 287, 288, 289, 290, 291, 292, 293, 294, 306 and 312

Recommending that the Senate advise and consent to the nominations of the following:

NORA L. TEJERO to the East Honolulu Subarea Health Planning Council, for a term ending December 31, 1986;

ERIKA EBERLY and ROSE ANN POYZER to the Board of Health, for terms ending December 31, 1987;

LEONARD P. PARESA, SR., MARVIN B. HALL, and SHAINA V. CAPOROZ to the Statewide Health Coordinating Council, for terms ending December 31, 1987;

JOHN A. IMOTO to the East Honolulu Subarea Health Planning Council, for a term ending December 31, 1987;

HARRY H. IMY and HERITA AGMATA to the West Honolulu Subarea Health Planning Council, for terms ending December 31, 1987;

MELVIN Y. NISHIMOTO to the Central Oahu Subarea Health Planning Council, for a term ending December 31, 1987;

DAVID H. LUEHR and EDWARD TSUKASA to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1987;

JOHN J. VOLANTI to the Waianae Coast Subarea Health Planning Council, for a term ending December 31, 1987;

RICHARD JOHNSTON to the Kauai County Subarea Health Planning Council, for a term ending December 31, 1987;

JACK H. HOUTZ to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending December 31, 1987;

ROY A. FORBES to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for a term ending December 31, 1987;

FRANKLIN SUNN to the State Planning Council on Developmental Disabilities, for a term ending December 31, 1986;

ROBERT SING JUNG HU and EUGENE R. UEMURA to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1987;

JAMES K. ASATO to the Drug Product Selection Board, for a term ending December 31, 1987;

KENNETH ISHIZAKI, R. CHRIS JANSEN, BERT Y. KIMURA, Ph.D., and WALLY MIYAHIRA to the Environmental Council, for terms ending December 31, 1985;

JOHN BOSE II, GEORGE KRASNICK, WAYNE P. LAW, JAMES W. MORROW and CYNTHIA H.H. THIELEN to the Environmental Council, for terms ending December 31, 1986;

ROYCE S. FUKUNAGA, NOBORU IWAMI, JACK KELLNER, LEONARD K.P. LEONG and JACOB M. MANEGDEG to the Environmental Council, for terms ending December 31, 1987;

CHARLOTTE L. TOWNSEND to the Commission on the Handicapped, for a term ending December 31, 1987;

CURT T. TAGAWA to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for a term ending December 31, 1987;

ELIZABETH KUULEI BELL to the Board of Health, for a term ending December 31, 1987;

ALICE L. DEPPE to the Board of Radiologic Technologists, for a term ending December 31, 1987;

ZECIL KAPLAN and SAMUEL E. MEYER to the County Hospital Management Advisory Committee, Kauai County Hospital System, for terms ending December 31, 1987;

JOHN P. O' BRIEN and THEODORE I. SAKAI to the Advisory Commission on drug Abuse and Controlled Substances, for terms ending December 31, 1987;

MARK SPERRY, JOSEPH A. GROTE, M.D., ELEANOR L. NELSON and THEODORE T. INOUYE to the State Emergency Medical Services Advisory Committee, for terms ending December 31, 1987;

JACK TADASHI MATSUI, LYDIA SUMIKO RANGER and SIDNEY JANE BERG to the Commission on the Handicapped, for terms ending December 31, 1987;

TOMOE KOMATA, RIX MAURER III and DEAN M. MATSUSHIMA to the East Honolulu Subarea Health Planning Council, for terms ending December 31, 1987;

BONNIE-JAY SANCHEZ, MERLYN E. RACO, WILLIAM THOMAS TAKABA, KATHERINE GRACE TAKEHIRO and ROBERT M. KAWAKONE, to the Hawaii County Subarea Health Planning Council, for terms ending December 31, 1987;

MARK ONAKA to the Hawaii County Subarea Health Planning Council, for a term ending December 31, 1987;

RIZALINO R. VICENTE to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending December 31, 1987;

FRED J. KOEHNEN to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for a term ending December 31, 1987;

VIOLA M. WATSON to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for a term ending December 31, 1986;

JOSEPH PONTANILLA to the County Hospital Management Advisory Committee, Maui County Hospital System, for a term ending December 31, 1987;

STEVEN H. MURANAKA, CAROLYN H. BOCKHAUT, HELEN ALEXINA DYE, LURA L. O'CONNEL and BETSY A. COTTER to the State Planning Council on Developmental Disabilities, for terms ending December 31, 1986;

ALICE HIGUCHI, MASAYOSHI FUJITA, EDITH DUNG, LESLIE S. MATSUBARA, MARK YASUO YABUI, PATRICIA D.G. OTAKE, ELAINE WILSON, KATHERINE ANNE O'REILLY, CAMILLE HANSEN ALMY and AMY M. SAKIHAMA to the State Planning Council on Developmental Disabilities, for terms ending December 31, 1987;

CHARLES K. FU to the Kauai County Subarea Health Planning Council, for a term ending December 31, 1984;

ERICA C. JONES to the State Planning Council on Developmental Disabilities, for a term ending December 31, 1986;

NADINE C. BRUCE, M.D., and ERNESTO M. ESPALDON, M.D., to the Drug Product Selection Board, for terms ending December 31, 1987;

HAROLD S.Y. HEE to the Statewide Health Coordinating Council, for a term ending December 31, 1985;

GLENN M. LOVEJOY and MASAO WATANABE to the Statewide Health Coordinating Council, for terms ending December 31, 1986;

MINORU INABA, RICHARD S. HIGASHI, ALBERT P. MONIZ, EUGENE YAMAMOTO and PETER A. SYBINSKY, Ph.D., to the Statewide Health Coordinating Council, for terms ending December 31, 1987;

SUE CARPENTER QUINN to the Central Oahu Subarea Health Planning Council, for a term ending December 31, 1986;

LEILANI T. NISHIMURA, DAVID EDWARD GIRE, CHISENO ELEANOR MIYASAKI and RONALD H. TAKATA to the Central Oahu Subarea Health Planning Council, for terms ending December 31, 1987;

MARK J. O'DONNELL to the Waianae Coast Subarea Health Planning Council, for a term ending December 31, 1985;

ARMAND RICHARD HERNANDEZ, M.D., to the Waianae Coast Subarea Health Planning Council, for a term ending December 31, 1986;

JOYCE E. ALLOSADA and VICTOR G. ROMLEY to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1987;

JOSEPH V. SCAZZOLA, M.D., to the Hawaii County Subarea Health Planning Council, for a term ending December 31, 1986;

BARBARA CENTEIO YAMASHITA, WARREN K. ORIKASA and CLARENCE S. CRAVALHO to the Maui County Subarea Health Planning Council, for terms ending December 31, 1987;

SALLY BRITTON, CLAIRE UENO and RICHARD K. NII to the Kauai County Subarea Health Planning Council, for terms ending December 31, 1987;

WINIFRED H. ISHIMOTO and KATHLEEN K. YOSHITOMI to the West Honolulu Subarea Health Planning Council, for terms ending December 31, 1987; and

PHIL PALMER to the Kauai County Subarea Health Planning Council, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 824-84 Consumer Protection and Commerce on Gov. Msg. Nos. 300, 301, 302 and 311

Recommending that the Senate advise and consent to the nominations of the following:

ABE SAKAI to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1984;

MARILYN E. MILLER to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1987;

ROY M. SHIMOTSUKASA to the Pest Control Board, for a term ending December 31, 1987;

JOSEPH F. BLANCO to the Real Estate Commission, for a term ending December 31, 1987; and

RANDY KOOK DO CHUN to the Board of Acupuncture, for a term ending December 31, 1987.

Signed by all members of the Committee except Senators Fernandes Salling and Kawasaki.

SCRep. 825-84 Government Operations and County Relations on Gov. Msg. Nos. 149 and 250

Recommending that the Senate advise and consent to the nominations of the following:

VICTOR K. PUNUA to the Civil Defense Advisory Council, for a term ending December 31, 1987; and

GABE K. KILAKALUA, Jr., to the Civil Defense Advisory Council, for a term ending December 31, 1987.

Signed by all members of the Committee except Senators Cobb and Solomon.

SCRep. 826-84 Higher Education on S.R. No. 38

The purpose of this Resolution is to request the Board of Regents and the University of Hawaii to submit an assessment of the need and impact of adopting and implementing more rigorous standards for admission.

Presently the Board of Regents policy is an open-door admission policy at the community colleges, i.e., any high school graduate or anyone eighteen years or older may be admitted. This policy, however, may conflict with educational reforms necessitated by rigid and significant advances in science and technology.

Your Committee heard favorable testimony on this resolution from the University of Hawaii which stated that it has been reviewing, during the past year, admission policy and practice at Hawaii's four-year colleges, and that the University has and will continue to be sensitive to the impact of changes in this area on enrollment patterns and access to higher education in Hawaii.

Your Committee further heard favorable testimony from the Chancellor of Community Colleges who stated that she would be participating in the study and its recommendations.

Your Committee finds that admissions standards are one mechanism for enhancing educational quality and finds that this report is needed to ensure the quality of the University system.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 38 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 827-84 Judiciary on Gov. Msg. No. 316

Recommending that the Senate consent to the nomination of RICHARD R. KOMO as Circuit Court Judge of the Second Circuit, for a term of ten years.

Signed by all members of the Committee.

SCRep. 828-84 Transportation on Gov. Msg. No. 298

Recommending that the Senate advise and consent to the nominations of ALLAN R. KUNIMOTO, M.D., and QUINTON L. UY, M.D., to the Medical Advisory Board, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 829-84 Tourism on Gov. Msg. No. 184

Recommending that the Senate advise and consent to the nomination of EDWIN K. HAYASHI to the Stadium Authority, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 830-84 Agriculture on Gov. Msg. Nos. 123, 124, 125, 201, 202 and 217

Recommending that the Senate advise and consent to the nominations of the following:

GEORGE S. FUJII to the Advisory Committee on Agricultural Products, for a term ending December 31, 1987;

MICHAEL GOLDSTEIN to the Advisory Committee on Flowers and Foliage, for

a term ending December 31, 1987;

ASHER K. OTA and MELVIN MIRANDA to the Advisory Committee on Pesticides, for terms ending December 31, 1987;

RALPH S. YAGI to the Board of Agriculture, for a term ending December 31, 1987.

MAMORU SHIMIZU to the Advisory Committee on Agricultural Products, for a term ending December 31, 1984; and

JAMES PHILIP BARR and CALVIN H. ODA to the Advisory Committee on Pesticides, for terms ending December 31, 1987.

Signed by all members of the Committee except Senators Fernandes Salling, Machida and Ajifu.

SCRep. 831-84 Agriculture on H.B. No. 1702-84

The purpose of this bill is to expand the requirements for obtaining a license to operate as a broker of farm produce.

Under current law, a broker is not required to file a schedule of commissions and charges or to obtain a surety bond in order to obtain a license as a broker of farm produce. The bill requires that such conditions be met. These conditions parallel the licensing requirements applicable to commission merchants.

This bill also subjects "agents" to the penalty provisions for the late renewal of a license. The present law provides penalties for other licensees and your Committee finds that the law should apply equally to all licensees.

Your Committee received supporting testimony for the bill from the Chairman of the Board of Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1702-84, 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 Fernandes Salling, Machida and Ajifu.

SCRep. 832-84 Ways and Means on H.B. No. 1760-84

The purpose of this bill is to authorize the Hawaii Community Development Authority (HCDA) to issue \$30,000,000 of assessment area bonds for district-wide infrastructure improvement projects in the Kaka'ako District.

Section 206E-6, Hawaii Revised Statutes, directs the Authority to undertake public facilities as part of a district-wide improvement program and to assess a part of the cost of these improvements against properties specially benefiting from such improvements. While this section authorizes HCDA to issue assessment bonds to finance the public facilities, the Legislature did not include a specific authorization amount.

Your Committee finds the Authority will need to issue assessment bonds to finance \$25,000,000 to \$29,000,000 of the infrastructure cost. Your Committee agrees that the Authority be allowed to issue \$30,000,000 of assessment bonds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1760-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 833-84 (Majority) Ways and Means on H.B. No. 2021-84

The purpose of this bill is to amend Act 300, Session Laws of Hawaii 1983, to delete language that makes Aloha Studios, Inc., a part of the department of budget and finance for administrative purposes and to delete the appropriation made for staff and support services to Aloha Studios, Inc.

Your Committee finds that Act 300 erroneously makes Aloha Studios, Inc., a

private Hawaii corporation, a part of the department of budget and finance, and that the appropriation to provide support services to Aloha Studios, Inc., was vetoed by the governor. This bill will prevent confusion about the status of Aloha Studios and delete an unnecessary section in the Act.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2021-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 834-84 (Majority) Ways and Means on H.B. No. 2230-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$12 million for the purpose of assisting Kamakani Ikaika, Inc., a California corporation, or a partnership in which Kamakani Ikaika, Inc., is a general partner, in the generation of capital for the establishment of a 5 megawatt wind farm and related facilities on the island of Hawaii.

Your Committee heard the companion bill on this subject S.B. No. 1839-84.

Your Committee finds that wind energy is a renewable, nonpolluting resource which can reduce the State's dependence on imported petroleum for its energy needs.

Your Committee further finds that the State must actively encourage the development of such alternative energy resources immediately and that financial assistance through the issuance of special purpose revenue bonds is an attractive means of assistance.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2230-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 835-84 (Majority) Ways and Means on H.B. No. 2409-84

The purpose of this bill is to authorize the department of budget and finance to issue special purpose revenue bonds in the sum of \$3,000,000 to finance improvements and secure refinancing for the Pohai Nani Good Samaritan Kauhale health care facility.

Your Committee heard the companion bill on this matter S.B. No. 2032-84.

Your Committee finds that in 1981 a similar bond issue financially assisted the operation of Pohai Nani and the savings obtained helped keep the expected annual rate increases down for the residents. The proposed bond issue would have a similar cost savings effect and this savings would be passed directly to the facility's residents.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2409-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 836-84 Health on S.R. No. 147

The purpose of this resolution is to request the Department of Health to establish a commission for the purpose of reviewing Chapter 326, Hawaii Revised Statutes, relating to Hansen's Disease and Hawaii's public health policy pertaining thereto.

It is the declared public position of the Legislature, as expressed in section 326-40, Hawaii Revised Statutes, that "Hawaii's Hansen's Disease victims have in many ways symbolized the plight of those afflicted with this disease throughout the world. Their suffering and social deprivations helped eventually to bring the story of the disease and an understanding of its health ravages to people everywhere." This attitude reflects the original commitment to Hansen's Disease

sufferers expressed in the ceding of federal lands to the Territory of Hawaii for the care and treatment of Hansen's Disease victims. Since then, medical research has made it possible to control Hansen's Disease through drug therapy, but the problem continues to exist. Victims continue to need care, treatment and a place to live, and the State needs to review and update its laws and policies regarding these people, to reflect current problems and needs.

Your Committee heard testimony in support of this resolution from the Hawaii Council of Churches, the Justice and Peace Committee of the Roman Catholic Diocese, and several Hansen's Disease sufferers and their supporters, and finds that the State continues to have a responsibility for these people and that an obligatory review and update of state laws and public health policies relating to Hansen's Disease and its victims is appropriate, necessary, and in the public interest.

Your Committee has amended the resolution to reflect that April 15, 1984 is the 95th anniversary of Father Damien's death, rather than the 94th as erroneously stated in the first "WHEREAS" clause.

Your Committee on Health concurs with the intent and purpose of S.R. No. 147, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 147, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 837-84 Health on S.R. No. 148

The purpose of this resolution is to request the Board of Medical Examiners and the Department of Commerce and Consumer Affairs (DCCA), to provide for effective distribution of the standards on informed consent for breast cancer treatment.

Recently, the Board of Medical Examiners adopted standards to ensure that patient consent to mastectomy is an informed consent. These standards serve to assure that patients have adequate information to make informed decisions regarding treatment.

Your Committee finds that information on the board's standards for informed consent to breast cancer treatment should be readily available to primary care physicians, specialists, and patients. Your Committee further finds that the informed consent standards have not been widely distributed and that such inaction seriously impairs the effectiveness of the informed consent law and negates legislative intent.

Your Committee on Health concurs with the intent and purpose of S.R. No. 148 and recommends its adoption.

Signed by all members of the Committee except Senators Young and George.

SCRep. 838-84 Health on H.C.R. No. 95

The purpose of this concurrent resolution is to request the Governor of Hawaii and Hawaii's congressional delegation to continue efforts to obtain information on the use of pesticides and related hazardous and toxic substances by the United States military and to request that an annual report on pesticide usage by the United States military be submitted to the Office of Environmental Quality Control.

The information obtained from the military and other federal agencies concerning usage of hazardous and toxic substances is crucial in understanding the full magnitude of the contamination problem in Hawaii. Such information would be useful in determining the sources of contamination recently found in the groundwater of Kunia, Mililani, and Waipahu.

Your Committee heard testimony in support of this concurrent resolution from the Departments of Health and Agriculture and the Office of Environmental Quality Control.

Your Committee amended the concurrent resolution by amending the BE IT RESOLVED clause to delete the word "related". This would expand the scope

of the requested annual report to toxic chemicals in general rather than to restrict the report to pesticides only.

Your Committee further amended the concurrent resolution by amending the second BE IT FURTHER RESOLVED clause to delete reference to "commander-in-chief" of the military and instead specified that a certified copy of the concurrent resolution be sent to the "U.S. Department of Defense." This amendment more accurately reflects the intent of the concurrent resolution to make inquiry of the U.S. military.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 95, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 95, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 839-84 Health on S.C.R. No. 108

The purpose of this concurrent resolution, as received by your Committee, is to request the Governor to delay approving the Department of Health's proposed administrative rules for regulating underground injection control in order to allow time to assess the potential economic impact on new construction, especially on the neighbor islands.

According to testimony presented by the Construction Industry Legislative Organization and Kanoelehua Industrial Area Association, Title II, Chapter 23 of the proposed administrative rules would limit the capacity of a cesspool or septic tank to 1,000 gallons of sewage per day for any nonresidential building having an individual wastewater system, effectively excluding most nonresidential uses. The rules would also delineate a line of 500 feet above mean sea level for construction and operation of any nonexempted aquifer for commercial or industrial operations. This restriction would preclude commercial or industrial operations above 500 feet in many up-land sites on the neighbor islands.

The Department of Health, on the other hand, testified against the concurrent resolution on the basis that prohibition of sewage effluent injection to protect underground sources of drinking water is a preventive measure which has already been well-established in the City and County of Honolulu, and that critical problems would arise if the proposed rules are not adopted as soon as possible. The United States Environmental Protection Agency (EPA) is scheduled to implement a less restrictive Underground Injection Control Program by October 29, 1984 which would permit sewage effluent injection into Hawaii's fragile and inadequate drinking water aquifers. Title II, Chapter 23, on the other hand, would prohibit such injection. The Department contends that the public would be confused if the State should implement its program after the EPA implemented theirs. Also, immediate adoption of Chapter 23 will enable the Department to request additional federal grant moneys for further development of the Underground Injection Control Program. The Department does not have any alternative source of funds, for further development of the proposed program.

After considering the issue and the testimony, your Committee finds that both sides have reasonable arguments but that delaying the approval of the Department's rules is inappropriate in that it might allow the EPA's less restrictive Underground Injection Control Program to supercede the State's and result in the State's loss of federal revenues. Your Committee believes that an administrative solution to the problem can be found if the parties meet with the governor to assess the impact of the rules and recommend amendments, if appropriate. Accordingly, your Committee has amended the concurrent resolution to request that the Department of Health and the mayors of the counties meet with the Governor to assess the economic impact of Title II, Chapter 23 and to address the problem of development above 500 feet elevation.

Your Committee has further amended this concurrent resolution by amending its title to reflect the purpose of the amended resolution.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 108, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 108, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 840-84 Health on S.R. No. 129

The purpose of this resolution, as received by your Committee, is to request the Governor to delay approving the Department of Health's proposed administrative rules for regulating underground injection control in order to allow time to assess the potential economic impact on new construction, especially on the neighbor islands.

According to testimony presented by the Construction Industry Legislative Organization and Kanoelehua Industrial Area Association, Title II, Chapter 23 of the proposed administrative rules would limit the capacity of a cesspool or septic tank to 1,000 gallons of sewage per day for any nonresidential building having an individual wastewater system, effectively excluding most nonresidential uses. The rules would also delineate a line of 500 feet above mean sea level for construction and operation of any nonexempted aquifer for commercial or industrial operations. This restriction would preclude commercial or industrial operations above 500 feet in many up-land sites on the neighbor islands.

The Department of Health, on the other hand, testified against the resolution on the basis that prohibition of sewage effluent injection to protect underground sources of drinking water is a preventive measure which has already been well-established in the City and County of Honolulu, and that critical problems would arise if the proposed rules are not adopted as soon as possible. The United States Environmental Protection Agency (EPA) is scheduled to implement a less restrictive Underground Injection Control Program by October 29, 1984 which would prevent sewage effluent injection into Hawaii's fragile and inadequate drinking water aquifers. Title II, Chapter 23, on the other hand, would prohibit such injection. The Department contends that the public would be confused if the State should implement its program after the EPA implemented theirs. Also, immediate adoption of Chapter 23 will enable the Department to request additional federal grant moneys for further development of the Underground Injection Control Program. The Department does not have any alternative source of funds for further development of the proposed program.

After considering the issue and the testimony, your Committee finds that both sides have reasonable arguments but that delaying the approval of the Department's rules is inappropriate in that it might allow the EPA's less restrictive Underground Injection Control Program to supercede the State's and result in the State's loss of federal revenues. Your Committee believes that an administrative solution to the problem can be found if the parties meet with the governor to assess the impact of the rules and recommend amendments, if appropriate. Accordingly, your Committee has amended the resolution to request that the Department of Health and the mayors of the counties meet with the Governor to assess the economic impact of Title II, Chapter 23 and to address the problem of development above 500 feet elevation.

Your Committee has further amended this resolution by amending its title to reflect the purpose of the amended resolution.

Your Committee on Health concurs with the intent and purpose of S.R. No. 129, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 129, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 841-84 Health on S.C.R. No. 120

The purpose of this concurrent resolution is to request the Legislative Reference Bureau (LRB) to identify and analyze needs information relating to child and adult physical, sexual and psychological abuse and make recommendations concerning these areas to the Legislature. The concurrent resolution further requests the Department of Health (DOH) to develop a comprehensive plan for administratively linking existing abuse services.

Currently, there is a need for organization and documentation of information concerning the problems of family violence, sexual assault, child abuse and other areas of concern; and to inventory the services being provided in these areas. This concurrent resolution addresses that need by requesting the LRB to study and identify issues and areas that need legislative input and the DOH to administratively link existing services related to such problems.

Your Committee heard favorable testimony from the DOH, the Executive Office on Aging, Kapiolani/Children's Medical Center, the Child and Family Service, the Hawaii Child Abuse and Neglect Coalition, and the Hawaii State Committee on Family Violence supporting the intent of this concurrent resolution.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 120 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 842-84 Health on S.R. No. 150

The purpose of this resolution is to request the Legislative Reference Bureau (LRB) to identify and analyze needs information relating to child and adult physical, sexual and psychological abuse and make recommendations concerning these areas to the Legislature. The resolution further requests the Department of Health (DOH) to develop a comprehensive plan for administratively linking existing abuse services.

Currently, there is a need for organization and documentation of information concerning the problems of family violence, sexual assault, child abuse and other areas of concern, and to inventory the services being provided in these areas. This resolution addresses that need by requesting the LRB to study and identify issues and areas that need legislative input and the DOH to administratively link existing services related to such problems.

Your Committee heard favorable testimony from the DOH, the Executive Office on Aging, Kapiolani/Children's Medical Center, the Child and Family Service, the Hawaii Child Abuse and Neglect Coalition, and the Hawaii State Committee on Family Violence supporting the intent of this resolution.

Your Committee on Health concurs with the intent and purpose of S.R. No. 150 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 843-84 Health on S.C.R. No. 110

The purpose of this concurrent resolution, as received by your Committee, was to request the Governor to delay implementing Title II, Chapter 57 of the administrative rules of the Department of Health until the Department and the public works departments of the counties have assessed the economic impact of the rules and determine how the public health and safety can be assured without the stringent sewage requirements provided in the rules.

Chapter 57 requires that buildings be connected to a public sewer system and that each individual wastewater system have an independent sewer system. Your Committee heard testimony by the General Contractors Association of Hawaii and the Construction Industry Legislative Organization that the rules are unreasonable and costly to developers, contractors, and consumers, especially in rural developments.

The Department of Health, on the other hand, testified that the responsibility for controlling and regulating private wastewater treatment plants and disposal systems should rest with the counties. Currently, the counties are responsible for determining land use and zoning and for approving development plans and buildings. The State is responsible for approving wastewater treatment and disposal systems for new developments. According to the Department, this shared jurisdiction has often resulted in confusion and duplication of responsibilities with developers, inappropriate development, and the creation of wastewater treatment and disposal systems in areas with high environmental risk quotients. The Department contends that the public interest would be best served by transferring wastewater regulation to the counties and allowing the counties to adopt ordinances for reviewing and approving new developments pursuant to section 11-57-02 of the Department's rules. Such action would centralize jurisdiction and be cost efficient.

After considering the issue and reviewing the testimony, your Committee finds that requesting a delay in implementing Title 11, Chapter 57 is inappropriate. Rather, the Department of Health and the Mayors of the counties should meet

with the Governor to assess the economic impact of the rules and to determine how the public health and safety can be assured without excessively stringent sewage requirements, such assessment and determination to include recommendations for amending Chapter 57, if appropriate. Your Committee has amended the concurrent resolution accordingly. In the meantime, your Committee recommends that the counties and the state continue to discharge their responsibilities regarding wastewater treatment and facility construction until such time as they can agree on a suitable method for transferring the State's function to the counties.

Your Committee has amended the title of this concurrent resolution to reflect that the purpose of the amended resolution is to request an assessment of Title 11, Chapter 57.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 110, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 110, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 844-84 Health on S.R. No. 131

The purpose of this resolution, as received by your Committee, was to request the Governor to delay implementing Title II, Chapter 57 of the administrative rules of the Department of Health until the Department and the public works departments of the counties have assessed the economic impact of the rules and determine how the public health and safety can be assured without the stringent sewage requirements provided in the rules.

Chapter 57 requires that buildings be connected to a public sewer system and that each individual wastewater system have an independent sewer system. Your Committee heard testimony by the General Contractors Association of Hawaii and the Construction Industry Legislative Organization that the rules are unreasonable and costly to developers, contractors, and consumers, especially in rural developments.

The Department of Health, on the other hand, testified that the responsibility for controlling and regulating private wastewater treatment plants and disposal systems should rest with the counties. Currently, the counties are responsible for determining land use and zoning and for approving development plans and buildings. The State is responsible for approving wastewater treatment and disposal systems for new developments. According to the Department, this shared jurisdiction has often resulted in confusion and duplication of responsibilities with developers, inappropriate development, and the creation of wastewater treatment and disposal systems in areas with high environmental risk quotients. The Department contends that the public interest would be best served by transferring wastewater regulation to the counties and allowing the counties to adopt ordinances for reviewing and approving new developments pursuant to section 11-57-02 of the Department's rules. Such action would centralize jurisdiction and be cost efficient.

After considering the issue and reviewing the testimony, your Committee finds that requesting a delay in implementing Title 11, Chapter 57 is inappropriate. Rather, the Department of Health and the Mayors of the counties should meet with the Governor to assess the economic impact of the rules and to determine how the public health and safety can be assured without excessively stringent sewage requirements, such assessment and determination to include recommendations for amending Chapter 57, if appropriate. Your Committee has amended the resolution accordingly. In the meantime, your Committee recommends that the counties and the state continue to discharge their responsibilities regarding wastewater treatment and facility construction until such time as they can agree on a suitable method for transferring the State's function to the counties.

Your Committee has amended the title of this resolution to reflect that the purpose of the amended resolution is to request an assessment of Title 11, Chapter 57.

Your Committee on Health concurs with the intent and purpose of S.R. No. 131, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 131, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 845-84 Health on S.C.R. No. 119

The purpose of this concurrent resolution is to authorize the Department of Health (DOH), through its Public Health Nursing Unit, to establish and maintain Senior Case Management Coordination Projects for the islands of Maui and Kauai, and to release previously allocated funds to provide for sufficient personnel to operate the programs.

The Area Agency on Aging in Hawaii County has contracted with the Executive Office on Aging (EOA) and the DOH's Public Health Nursing Unit to provide individualized health screening and case management service to Hawaii's senior citizens. This program has been highly successful in providing individual care and minimizing premature or unnecessary institutionalization of persons to whom such help was previously unavailable, and your Committee believes that comparable programs on other neighbor islands would be efficient, efficacious, and in the public interest.

Your Committee received testimony in support of this concurrent resolution from the DOH and EOA. However, the DOH has indicated that current funding restrictions preclude the employment of personnel to staff such projects. Nonetheless, your Committee finds that the prohibitive cost of conventional health service provision to frail elderly citizens and the increasing demand for innovative planning and alternatives to institutionalization warrant every attempt to initiate new programs such as the Senior Case Management Coordination Project. Therefore, your Committee has amended the concurrent resolution to authorize the establishment of a Senior Case Management Project only for the island of Maui, which has the greater need, in the belief that diligent effort on the part of all concerned parties will uncover sufficient funds to begin operations. Should such funding efforts be successful, your Committee recommends that a similar project be initiated on the island of Kauai in the near future. Your Committee has also amended the title of the concurrent resolution to reflect the deletion of Kauai.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 119, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 119, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 846-84 Economic Development on S.C.R. No. 107

The purpose of this concurrent resolution is to urge the United States Department of Energy and Martin Marietta Energy Systems, Inc., to provide additional funding to the BioEnergy Development Corp.'s eucalyptus tree farm project on the island of Hawaii.

Hawaii is still ninety percent dependent upon imported petroleum for all its energy needs. The State's geographical isolation and lack of fuels such as coal, oil, and natural gas make it imperative for us to encourage development of our alternative energy resources. The present lower prices and supply surpluses for petroleum products cannot be expected to continue indefinitely. It is essential that we continue to make progress toward the development of our indigenous alternate energy resources.

Your Committee finds that energy tree farms such as those being developed by the BioEnergy Corp. will make an important contribution to Hawaii's energy future. The project has now progressed to the stage where continued support is essential to provide actual data on harvesting and regrowth experience to validate estimated field yields and harvesting costs. These data are necessary to assist in the completion of the research and development phase and the transition to commercial operation. The continued support of this project will assist tree farms to achieve their full potential as an alternate energy resource in Hawaii as well as in other parts of our nation and the Pacific area.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 107 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 847-84 Economic Development on S.R. No. 128

The purpose of this resolution is to urge the United States Department of Energy and Martin Marietta Energy Systems, Inc., to provide additional funding to the BioEnergy Development Corp.'s eucalyptus tree farm project on the island of Hawaii.

Hawaii is still ninety percent dependent upon imported petroleum for all its energy needs. The State's geographical isolation and lack of fuels such as coal, oil, and natural gas make it imperative for us to encourage development of our alternative energy resources. The present lower prices and supply surpluses for petroleum products cannot be expected to continue indefinitely. It is essential that we continue to make progress toward the development of our indigenous alternate energy resources.

Your Committee finds that energy tree farms such as those being developed by the BioEnergy Corp. will make an important contribution to Hawaii's energy future. The project has now progressed to the stage where continued support is essential to provide actual data on harvesting and regrowth experience to validate estimated field yields and harvesting costs. These data are necessary to assist in the completion of the research and development phase and the transition to commercial operation. The continued support of this project will assist tree farms to achieve their full potential as an alternate energy resource in Hawaii as well as in other parts of our nation and the Pacific area.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 128 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 848-84 Economic Development on S.C.R. No. 109

The purpose of this concurrent resolution is to request the Governor to designate July 1984 as "Endangered Species Protection Month" in recognition of the need to preserve and protect Hawaii's unique and fragile natural heritage and in observance of the 75th anniversary of the designation of the northwestern Hawaiian islands as a national wildlife refuge.

Your Committee finds that Hawaii's precious living resources need to be carefully managed and protected in order that the State does not lose the natural resources which make our islands unique. The endangered species problem is of vital significance and Hawaii is home to more endangered species than any other state. More endangered bird species exist in the islands than on the entire continental United States, including Alaska. Unique examples of living resources which have evolved and adapted throughout history are threatened with extinction on every major island in the Hawaiian chain. Public concern for the endangered species has been found to be very high, however, survey respondents are demonstrably misinformed on key issues. In light of this situation increased public information plays a vital role.

Your Committee received supporting testimony from the Environmental Center of the University of Hawaii, Greenpeace Hawaii, the Sierra Club, Hawaii Chapter, and the Conservation Council for Hawaii, and finds that recognition of Hawaii's endangered species and the importance of the Hawaiian Islands National Wildlife Refuge through executive proclamation would assist in drawing public attention to these issues and therefore serve to benefit the State and its wildlife.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 109 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 849-84 Economic Development on S.R. No. 130

The purpose of this resolution is to request the Governor to designate July 1984 as "Endangered Species Protection Month" in recognition of the need to preserve and protect Hawaii's unique and fragile natural heritage and in observance of the 75th anniversary of the designation of the northwestern Hawaiian islands as a national wildlife refuge.

Your Committee finds that Hawaii's precious living resources need to be carefully managed and protected in order that the State does not lose the natural resources which make our islands unique. The endangered species problem is of vital significance and Hawaii is home to more endangered species than any other state. More endangered bird species exist in the islands than on the entire continental United States, including Alaska. Unique examples of living resources which have evolved and adapted throughout history are threatened with extinction on every major island in the Hawaiian chain. Public concern for the endangered species has been found to be very high, however, survey respondents are demonstrably misinformed on key issues. In light of this situation increased public information plays a vital role.

Your Committee received supporting testimony from the Environmental Center of the University of Hawaii, Greenpeace Hawaii, the Sierra Club, Hawaii Chapter, and the Conservation Council for Hawaii, and finds that recognition of Hawaii's endangered species and the importance of the Hawaiian Islands National Wildlife Refuge through executive proclamation would assist in drawing public attention to these issues and therefore serve to benefit the State and its wildlife.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 130 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 850-84 Economic Development on S.C.R. No. 116

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development's Coastal Zone Management Program and the Hawaii Institute of Geophysics to conduct a study on the possible consequences of the greenhouse effect on Hawaii's sea levels.

Your Committee finds that though the consequences of the greenhouse effect are not anticipated until the twenty-first century, it is essential to obtain information in order to formulate long-range plans and decisions. It is predicted that even a slight variation in sea level could have tremendous social, economic, and environmental consequences for Hawaii.

Your Committee amended the concurrent resolution to add the Governor and members of Hawaii's congressional delegation as persons to receive certified copies of the concurrent resolution.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 116, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 116, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 851-84 Economic Development on S.R. No. 137

The purpose of this resolution is to request the Department of Planning and Economic Development's Coastal Zone Management Program and the Hawaii Institute of Geophysics to conduct a study on the possible consequences of the greenhouse effect on Hawaii's sea levels.

Your Committee finds that though the consequences of the greenhouse effect are not anticipated until the twenty-first century, it is essential to obtain information in order to formulate long-range plans and decisions. It is predicted that even a slight variation in sea level could have tremendous social, economic, and environmental consequences for Hawaii.

Your Committee amended the resolution to add the Governor and members of Hawaii's congressional delegation as persons to receive certified copies of the resolution.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 137, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 137, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 852-84 Economic Development on S.C.R. No. 124

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to take immediate steps to establish an 'Alala sanctuary on state-owned lands.

Currently, the 'Alala or Hawaiian Crow is one of the most endangered birds in Hawaii and in the world, with the total known wild population having recently fallen dramatically to somewhere between seven and fifty birds. This concurrent resolution requests the DLNR to: 1) establish a sanctuary to protect the 'Alala, 2) formulate a management plan, 3) seek to provide meaningful economic incentives to encourage private owners of valuable forest lands to set aside such lands as forest reserves, 4) solicit suggestions from as many agency and private sector sources as is practical; and 5) enter into dialogue with private owners of forest lands suitable for inclusion in an 'Alala sanctuary to discuss the possibility of dedicating these portions into the forest reserve system.

Your Committee heard favorable testimony from the DLNR, the Greenpeace Foundation, the Sierra Club, and the Hawaii Audubon Society supporting the intent of this concurrent resolution. Your Committee finds that the establishment of sanctuaries for the 'Alala is critical to the survival of this species and that it is in the best interest of the State that the 'Alala and its natural habitat be preserved.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 124 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 853-84 Economic Development on S.R. No. 159

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to take immediate steps to establish an 'Alala sanctuary on state-owned lands.

Currently, the 'Alala or Hawaiian Crow is one of the most endangered birds in Hawaii and in the world, with the total known wild population having recently fallen dramatically to somewhere between seven and fifty birds. This resolution requests the DLNR to: 1) establish a sanctuary to protect the 'Alala, 2) formulate a management plan, 3) seek to provide meaningful economic incentives to encourage private owners of valuable forest lands to set aside such lands as forest reserves, 4) solicit suggestions from as many agency and private sector sources as is practical; and 5) enter into dialogue with private owners of forest lands suitable for inclusion in an 'Alala sanctuary to discuss the possibility of dedicating these portions into the forest reserve system.

Your Committee heard favorable testimony from the DLNR, the Greenpeace Foundation, the Sierra Club, and the Hawaii Audubon Society supporting the intent of this resolution. Your Committee finds that the establishment of sanctuaries for the 'Alala is critical to the survival of this species and that it is in the best interest of the State that the 'Alala and its natural habitat be preserved.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 159 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 854-84 Economic Development on S.C.R. No. 126

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to pursue the feasibility of promotional funds for innovative products processed from frozen island seafood.

Your Committee finds there is a growing realization by Hawaii's commercial fishing interests of the need to rejuvenate the fishing industry, to modernize fishing boats and equipment and to stabilize income and improve the marketing of the catch. Your Committee further finds that promotional support for fish and fish products would stimulate economic growth and the creation of additional jobs for our people.

Your Committee received favorable testimony from the Department of Planning and Economic Development and the Department of Land and Natural Resources, and finds that the fishing industry cannot afford to undertake promotional efforts on its own, but a cooperative effort between government and private industry could make a significant contribution.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 126 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 855-84 Economic Development on S.R. No. 162

The purpose of this resolution is to request the Department of Planning and Economic Development to pursue the feasibility of promotional funds for innovative products processed from frozen island seafood.

Your Committee finds there is a growing realization by Hawaii's commercial fishing interests of the need to rejuvenate the fishing industry, to modernize fishing boats and equipment and to stabilize income and improve the marketing of the catch. Your Committee further finds that promotional support for fish and fish products would stimulate economic growth and the creation of additional jobs for our people.

Your Committee received favorable testimony from the Department of Planning and Economic Development and the Department of Land and Natural Resources, and finds that the fishing industry cannot afford to undertake promotional efforts on its own, but a cooperative effort between government and private industry could make a significant contribution.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 162 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 856-84 Economic Development on S.C.R. No. 40

The purpose of this concurrent resolution is to request the State to pursue the feasibility of attracting out-of-State tuna purse seine vessels and other commercial activities to increase the use of Hawaii as a stop-over port or base of operations.

In 1983, at least eight purse seiners offloaded their catches in Honolulu for processing at the local cannery, or for transshipment to the U.S. mainland. The recent offloading activity here demonstrates the potential for Hawaii to play a major role in the tuna purse seine fishery. A recent report prepared by the Chamber of Commerce of Hawaii, Maritime Affairs Committee, indicates that the catch of a single purse seiner with a carrying capacity of 800 to 2,000 tons of tuna, may be worth up to one million dollars or more. Conservatively, such a vessel may expend \$300,000 during a port call.

Your Committee finds that the development of the tuna purse seine fishing could be a viable means of diversifying and strengthening Hawaii's economic base. Various local industries would benefit from activities associated with the offloading of tuna in Honolulu. The direct effects should be seen most clearly in the employment of stevedores, purchase of petroleum products, drydocking and repair of the ships, electronic and helicopter repairs, restocking of galley stores and marine supplies, and the visitor expenditures of the crews while the ship is moored in Honolulu. Stimulation of local business through these activities would also result in economic activity in other commercial and consumer oriented industries. In addition the growth and maturing of marine related businesses in response to increased purse-seiner arrivals could also add to the attractiveness of Hawaii as a center for ocean industry.

Your Committee is concerned about the effects of such large efficient fishing vessels as purse seiners on the local pole-and-line and longline fishing fleets. While tuna purse seining vessels fishing in the Western Pacific will have a minimal impact on local fishing operations, purse seiners that could start operating in the Central Pacific may have deleterious effects on the local fishing fleet. Your Committee finds that the situations and the effect of developing a purse seining industry in Hawaii must be carefully studied and evaluated so

that steps may be taken to insure long term economic opportunities for Hawaii's fishing interests.

Your Committee has amended this concurrent resolution by:

- (1) Adding a new sixth WHEREAS clause relating to the possibility of increased tax revenues for the State from tuna purse seining operations.
- (2) Specifying that the Department of Planning and Economic Development instead of the "state government" pursue the feasibility of attracting purse seiners to Hawaii.
- (3) Inserting a new BE IT FURTHER RESOLVED clause requesting the Department of Planning and Economic Development to prepare a report on the issues related to developing a purse seining industry.
- (4) Adding a new item (6) to the list of issues to be considered relating to the amount of financing needed to develop the industry and possible sources of financial support.
- (5) Inserting a new BE IT FURTHER RESOLVED clause requesting the Director of the Department of Planning and Economic Development to submit findings and recommendations for the tuna purse seining industry to the Legislature twenty days prior to the convening of the Regular Session of 1985.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 40, as amended herein, and recommends that it be adopted in the form attached hereto as S.C.R. No. 40, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 857-84 Economic Development on S.R. No. 46

The purpose of this resolution is to request the State to pursue the feasibility of attracting out-of-State tuna purse seine vessels and other commercial activities to increase the use of Hawaii as a stop-over port or base of operations.

In 1983, at least eight purse seiners offloaded their catches in Honolulu for processing at the local cannery, or for trans-shipment to the U.S. mainland. The recent offloading activity here demonstrates the potential for Hawaii to play a major role in the tuna purse seine fishery. A recent report, prepared by the Chamber of Commerce of Hawaii, Maritime Affairs Committee indicates that the catch of a single purse seiner with a carrying capacity of 800 to 2,000 tons of tuna, may be worth up to one million dollars or more, and conservatively, such a vessel may expend \$300,000 during a port call.

Your Committee finds that the development of tuna purse seine fishing could be a viable means of diversifying and strengthening Hawaii's economic base. Various local industries would benefit from the maintenance, re-provisioning and recreational activities which accompany the offloading of tuna in Honolulu. The direct effects should be seen most clearly in the employment of stevedores, purchase of petroleum products, drydocking and repair of the ships, electronic and helicopter repairs, restocking of galley stores and marine supplies, and the visitor expenditures of the crews while the ship is moored in Honolulu. Stimulation of local business through these activities would also result in economic activity in other commercial and consumer-oriented industries. In addition, the growth and maturing of marine-related businesses in response to increased purse-seiner arrivals could also add to the attractiveness of Hawaii as a center for ocean industry.

Your Committee is concerned about the effects of such large efficient fishing vessels as purse seiners on the local pole-and-line and longline fishing fleets. While tuna purse seining vessels fishing in the Western Pacific will have a minimal impact on local fishing operations, purse seiners that could start operating in the Central Pacific may have deleterious effects on the local fishing fleet. Your Committee finds that the situations and the effect of developing a purse seining industry in Hawaii must be carefully studied and evaluated so that steps may be taken to insure long term economic opportunities for Hawaii's

fishing interests.

Your Committee has amended this concurrent resolution by:

- (1) Adding a new sixth WHEREAS clause relating to the possibility of increased tax revenues for the State from tuna purse seining operations.
- (2) Specifying that the Department of Planning and Economic Development instead of the "state government" pursue the feasibility of attracting purse seiners to Hawaii.
- (3) Inserting a new BE IT FURTHER RESOLVED clause requesting the DPED to prepare a report on the issues related to developing a purse seining industry.
- (4) Adding a new item (6) to the list of issues to be considered relating to the amount of financing needed to develop the industry and possible sources of financial support.
- (5) Inserting a new BE IT FURTHER RESOLVED clause requesting the Director of the DPED to submit findings and recommendations for the tuna purse seining industry to the Senate twenty days prior to the convening of the Regular Session of 1985.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 46, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 46, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 858-84 Economic Development on S.R. No. 16

The purpose of this resolution is to request the Department of Planning and Economic Development (DPED) to take immediate measures to give the Small Business Innovation Research (SBIR) program the widest possible publicity statewide.

The Small Business Innovation Development Act was enacted in 1982 with the main objective being to make sure more small, high tech firms receive a greater share of federal Research and Development awards, an amount which will be \$45 million this year and ten times this amount within two years.

In April 1983, representatives from agencies and companies in the public and private sectors met to establish an information-sharing network within the State to facilitate information exchange of common interest between all segments of high technology industries. The DPED has served the network as a clearing-house and has regularly forwarded information to high technology companies in Hawaii concerning solicitations and other pertinent information devoted primarily to the SBIR program.

Since October 1982, the DPED has tried to make known the SBIR program to high technology firms by direct mail. Additional publicity through periodic articles in the DPED newsletter is being planned.

Your Committee finds that the SBIR program is compatible with the State's intent in diversifying Hawaii's economy in the area of high technology and should continue to receive legislative support.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 16 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 859-84 Health on S.R. No. 149

The purpose of this resolution is to authorize the Department of Health (DOH), through its Public Health Nursing Unit, to establish and maintain Senior Case Management Coordination Projects for the islands of Maui and Kauai, and to release previously allocated funds to provide for sufficient personnel to operate the programs.

The Area Agency on Aging in Hawaii County has contracted with the Executive Office on Aging (EOA) and the DOH's Public Health Nursing Unit to provide individualized health screening and case management service to Hawaii's senior citizens. This program has been highly successful in providing individual care and minimizing premature or unnecessary institutionalization of persons to whom such help was previously unavailable, and your Committee believes that comparable programs on other neighbor islands would be efficient, efficacious, and in the public interest.

Your Committee received testimony in support of this resolution from the DOH and EOA. However, the DOH has indicated that current funding restrictions preclude the employment of personnel to staff such projects. Nonetheless, your Committee finds that the prohibitive cost of conventional health service provision to frail elderly citizens and the increasing demand for innovative planning and alternatives to institutionalization warrant every attempt to initiate new programs such as the Senior Case Management Coordination Project. Therefore, your Committee has amended the resolution to authorize the establishment of a Senior Case Management Project only for the island of Maui, which has the greater need, in the belief that diligent effort on the part of all concerned parties will uncover sufficient funds to begin operations. Should such funding efforts be successful, your Committee recommends that a similar project be initiated on the island of Kauai in the near future. Your Committee has also amended the title of the resolution to reflect the deletion of Kauai.

Your Committee on Health concurs with the intent and purpose of S.R. No. 149, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 149, S.D. 1.

Signed by all members of the Committee except Senators Young and George.

SCRep. 860-84 (Joint) Higher Education and Consumer Protection and
Commerce on S.R. No. 83

The purpose of this resolution is to request the University of Hawaii to submit a report on the need to develop and implement a regular program of courses for the training of dental hygienists to administer local anesthetics and perform other expanded functions.

Currently, the University of Hawaii offers no courses for the training of dental hygienists to administer local anesthetics. This resolution requests a report addressing the need of the University of Hawaii to establish such a program of courses.

Your Committees heard favorable testimony from the Board of Dental Examiners, the Hawaii Dental Hygienists' Association, and the University of Hawaii supporting the intent of this resolution.

Your Committees note that the 1984 Legislative Auditor's Report recommends, with appropriate education and training, the administration of local anesthesia by dental hygienists. In addition, the University of Hawaii, Department of Dental Hygiene, has the approval of the Board of Regents to teach the clinical aspects of local anesthesia to its dental hygiene faculty. Your Committees find that the report requested by S.R. No. 83 will help to further identify the benefits and necessity of developing an appropriate program of courses for dental hygienists at the University of Hawaii regarding the administration of local anesthetics and the performance of other expanded functions.

Your Committees have amended this resolution to include the Hawaii Dental Association and the Hawaii Dental Hygienist's Association in the preparation of the requested report.

Your Committees on Higher Education and Consumer Protection and Commerce concur with the intent and purpose of S.R. No. 83, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 83, S.D. 1.

Signed by all members of the Committees.

SCRep. 861-84 Judiciary on H.C.R. No. 7

The purpose of this concurrent resolution is to request the Office of the Legislative Auditor to conduct a program and management audit of the

correctional system, which includes the Corrections Division, the Intake Service Centers, the Hawaii Paroling Authority, the State Public Defender, and the Probation Divisions of the Judiciary.

Your Committee finds that an independent audit may be the best means to determine whether there is a common directional course which can be taken by criminal justice agencies for the efficient and effective administration of justice.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 7, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Holt.

SCRep. 862-84 Economic Development on S.R. No. 98

The purpose of this resolution is to request the Department of Land and Natural Resources to establish a forest management program of native forest trees and to urge the acceleration of the research being conducted at the Institute of Pacific Islands Forestry on koa and ohia-koa ecosystems in light of public and private land management goals.

Hawaii's forests promote watershed recharge, provide habitat for rare and endangered plant and wildlife species, and serve as a recreational resource for the people of our State and a source of forest products. However, the State Conservation Land Plan has concluded that our native forests are being depleted by changing land use patterns, overmaturity, and pests.

Your Committee received testimony in support of this resolution from the Department of Land and Natural Resources and the Kamehameha Schools/Bernice Pauahi Bishop Estate, and finds that although the State has declared a policy of developing a forest product industry and preserving forests as watersheds, wildlife and plant habitats, and recreational areas, there is a real need for development and implementation of rejuvenation and active management techniques to insure the survival of native forests. Therefore, your Committee finds that it is appropriate for the State to develop and implement a forest management program for native forest trees.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 98 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 863-84 Economic Development on S.R. No. 146

The purpose of this resolution is to request the Department of Land and Natural Resources to report to the Legislature on the content and usage of a Flood Control Management Plan for the Kekaha Town region, Island of Kauai.

Currently, Kekaha town is susceptible to flooding on a regular basis, resulting in dangerous situations, inconvenience, and property loss to residents of the Kekaha Town Region. This resolution recognizes the plight of Kekaha Town residents and requests a flood control management plan to be formulated to provide relief to the Kekaha Town area.

Your Committee heard favorable testimony from the Department of Land and Natural Resources supporting the intent of this resolution.

Your Committee finds that proper flood control channels and drainage systems will prevent the flooding and that it is critical to the Kekaha region that a dependable flood control system be established.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 146 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 864-84 Economic Development on S.C.R. No. 115

The purpose of this concurrent resolution is to urge the active participation of government, private industry, faculty, students, and the general public in

the Marine Option Program's Ocean Day to be held April 18, 1984 at the University of Hawaii, Manoa Campus.

The Senate recognizes that an understanding of the marine environment and the relationship between Hawaii's people and our marine resources are crucial to the present and future well-being of our State. The Ocean Day event proposed for April 18, 1984, and to be held at the University of Hawaii Manoa Campus offers an ideal opportunity for people from all walks of life to come together and learn about Hawaii's unique relationship with the sea. The program will be held in acknowledgement of the Governor's Proclamation of Hawaii's participation in the National Year of the Ocean celebration and will feature speakers, film and slide shows, and static marine science-related displays in the Campus Center Building.

Your Committee finds that the proposed Ocean Day celebration is a significant event in our State and should be actively and enthusiastically supported by legislators and private citizens alike. Therefore, your Committee has amended the concurrent resolution by adding a new "BE IT RESOLVED" clause designating April 18, 1984 as "Hawaiian Ocean Day". Your Committee has also made technical changes which have no substantive effect.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 115, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 115, S.D. 1.

Signed by all members of the Committee.

SCRep. 865-84 Economic Development on S.R. No. 136

The purpose of this resolution is to urge the active participation of government, private industry, faculty, students, and the general public in the Marine Option Program's Ocean Day to be held April 18, 1984 at the University of Hawaii, Manoa Campus.

The Senate recognizes that an understanding of the marine environment and the relationship between Hawaii's people and our marine resources are crucial to the present and future well-being of our State. The Ocean Day event proposed for April 18, 1984, and to be held at the University of Hawaii Manoa Campus offers an ideal opportunity for people from all walks of life to come together and learn about Hawaii's unique relationship with the sea. The program will be held in acknowledgement of the Governor's Proclamation of Hawaii's participation in the National Year of the Ocean celebration and will feature speakers, film and slide shows, and static marine science-related displays in the Campus Center Building.

Your Committee finds that the proposed Ocean Day celebration is a significant event in our State and should be actively and enthusiastically supported by legislators and private citizens alike. Therefore, your Committee has amended the resolution by adding a new "BE IT RESOLVED" clause designating April 18, 1984 as "Hawaiian Ocean Day". Your Committee has also made technical changes which have no substantive effect.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 136, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 136, S.D. 1.

Signed by all members of the Committee.

SCRep. 866-84 Economic Development on H.C.R. No. 74

The purpose of this concurrent resolution is to request that the Governor of the State of Hawaii find unacceptable the designation of the Hawaii Humpback Whale Marine Sanctuary and to request the President of the United States and the Secretary of Commerce to reject the proposed whale sanctuary in light of the strong stand against the sanctuary by residents of the State of Hawaii.

In 1976 the Hawaiian Humpback Whale was designated as the State Marine Mammal of Hawaii. In 1977 a proposal was submitted to the National Oceanic and Atmospheric Administration (NOAA) to establish a National Marine Sanctuary for Humpback Whales in Hawaiian waters, pursuant to Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

After researching and studying the possibility of a marine sanctuary, in early 1984 the NOAA released the draft management plan and an environmental impact statement to designate certain Hawaiian waters as a whale sanctuary. The draft plan proposes a non-regulatory program which is intended to coordinate existing State and Federal marine resource protection programs. The document inventories all State statutes that have a bearing on the general subject of ocean resource management and identifies the agencies that have the authority to regulate ocean-use activities in Hawaii. The plan further focuses upon coordinating research projects and increasing public awareness and education programs on the humpback whale.

Your Committee received testimony in support of the concurrent resolution from the Western Pacific Fishery Management Council, the Hawaii Fishing Coalition Inc., Alika Cooper & Sons Inc., and other private citizens. The primary objection to the proposed sanctuary is that the management plan is vague, ambiguous, and could lead to further restrictions on various commercial and recreational marine activities. Presently, there are extensive Federal and State regulations which apply to the protection of the humpback whales. The proposed management plan does not further strengthen such laws and cannot guarantee decreased harassment of the whales.

Your Committee finds that there is general consensus that there is a need to protect the whales. However, the NOAA management plan as presently drafted does not adequately address these concerns.

Your Committee has amended the title of this concurrent resolution to insert the words "the proposed" in place of "a" so as to clarify that the concurrent resolution opposes the plan as presently drafted and not the concept of establishing a marine sanctuary. Your Committee has further amended this concurrent resolution to delete the thirteenth WHEREAS clause as being repetitious.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 74, H.D. 1, as amended herein and recommends its adoption in the form attached hereto as H.C.R. No. 74, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 867-84 Education on S.C.R. No. 56

The purpose of this concurrent resolution is to request the Department of Education to develop and implement a program to educate children in the State's public elementary schools in order to avoid and lessen their risk of being molested.

Your Committee finds that recent incidents of child molestation in this State has awakened public concern as to the safety of children in public schools. It is the intent of this concurrent resolution to assure the public that children of Hawaii are taught ways to avoid harm and reduce their vulnerability to attack. Programs which would educate children of one of the most heinous crimes committed in our society is supported and recommended by the National Coalition for Children's Justice.

Your Committee finds that the Department of Education has already developed and implemented an education program regarding child molestation, and has therefore amended the resolution by deleting the words "develop and implement" from the "BE IT RESOLVED" clause and replacing it with "improve and update", and by amending the title accordingly. Your Committee has also amended the bill by making nonsubstantive changes for the purposes of clarity.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 56, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 56, S.D. 1.

Signed by all members of the Committee.

SCRep. 868-84 Education on S.R. No. 65

The purpose of this resolution is to request the Department of Education to develop and implement a program to educate children in the State's public elementary schools in order to avoid and lessen their risk of being molested.

Your Committee finds that recent incidents of child molestation in this State has awakened public concern as to the safety of children in public schools. It is the intent of this resolution to assure the public that children of Hawaii are taught ways to avoid harm and reduce their vulnerability to attack. Programs which would educate children of one of the most heinous crimes committed in our society is supported and recommended by the National Coalition for Children's Justice.

Your Committee finds that the Department of Education has already developed and implemented an education program regarding child molestation, and has therefore amended the resolution by deleting the words "develop and implement" from the "BE IT RESOLVED" clause and replacing it with "improve and update", and by amending the title accordingly. Your Committee has also amended the bill by making nonsubstantive changes for the purposes of clarity.

Your Committee on Education concurs with the intent and purpose of S.R. No. 65, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 65, S.D. 1.

Signed by all members of the Committee.

SCRep. 869-84 Education on S.R. No. 141

The purpose of this resolution is to request the Director of Finance, with the assistance of the Department of Education (DOE), to review its policy of funding speech therapist positions under separate EDN budget categories.

Speech therapists play a vital role in the educational system by providing both direct and evaluation services to the students with speech impairments. Without speech therapists, many students would not be able to participate meaningfully in the educational process.

Your Committee received testimony from the DOE and finds that speech therapists are currently budgeted in two separate EDN budget categories: EDN 107 relating to direct services and EDN 208 relating to evaluation services. Your Committee further finds that the provision of effective and efficient educational programs for the speech impaired may be enhanced if the funding for such programs is directed through a single EDN budget category. Therefore, your Committee believes that a review of the DOE's current policy of funding speech therapist positions under separate EDN categories is both necessary and reasonable.

Your Committee on Education concurs with the intent and purpose of S.R. No. 141 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 870-84 Consumer Protection and Commerce on S.R. No. 1

The purpose of this resolution is to request the United States Postal Service to consider mechanisms to alleviate the problems with respect to mainland mail-in deadlines and to prohibit deadline practices which discriminate against residents of the State.

Presently, uniform nation-wide deadlines established by mainland mail order merchants for replies to short-term offers, contest promotions and negative option sales by book clubs, do not take into account the additional transit time involved in mailings to and from Hawaii. Therefore, residents of the State are sometimes denied a reasonable time to participate. The failure to provide Hawaii residents with an actual response period equivalent to that accorded mainland residents may be perceived as discriminatory. Your Committee finds that residents of this State should have equal access and opportunities to participate in mail order offers, sales and promotions as those persons living on the mainland.

Your Committee has been in correspondence with the United States Postal Service (Postal Service) and finds that the Postal Service has not exercised general regulatory authority over the trade practices of the mail order industry. The authority of the Postal Service with respect to the marketing practices of mail order merchants is limited to the enforcement, on a case-by-case basis, of statutes concerned with fraud (18 U.S.C. 1341), misrepresentations

(39 U.S.C. 3005), and lotteries (18 U.S.C. 1302, 39 U.S.C. 3005). Broad authority to regulate unfair or deceptive acts or practices in commerce, including the practices of mail order merchants, has been vested in the Federal Trade Commission. Therefore, your Committee has amended the resolution by:

- (1) Requesting the Federal Trade Commission, in addition to the Postal Service, to consider mechanisms to alleviate the problem of mail-in deadlines for distant states in the "BE IT RESOLVED" clause.
- (2) Providing that a copy of this resolution be transmitted to the Federal Trade Commission in the last "BE IT FURTHER RESOLVED" clause.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 1, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 871-84 Consumer Protection and Commerce on S.C.R. No. 1

The purpose of this concurrent resolution is to request the United States Postal Service to consider mechanisms to alleviate the problems with respect to mainland mail-in deadlines and to prohibit deadline practices which discriminate against residents of the State.

Presently, uniform nation-wide deadlines established by mainland mail order merchants for replies to short-term offers, contest promotions and negative option sales by book clubs, do not take into account the additional transit time involved in mailings to and from Hawaii. Therefore, residents of the State are sometimes denied a reasonable time to participate. The failure to provide Hawaii residents with an actual response period equivalent to that accorded mainland residents may be perceived as discriminatory. Your Committee finds that residents of this State should have equal access and opportunities to participate in mail order offers, sales and promotions as those persons living on the mainland.

Your Committee has been in correspondence with the United States Postal Service (Postal Service) and finds that the Postal Service has not exercised general regulatory authority over the trade practices of the mail order industry. The authority of the Postal Service with respect to the marketing practices of mail order merchants is limited to the enforcement, on a case-by-case basis, of statutes concerned with fraud (18 U.S.C. 1341), misrepresentations (39 U.S.C. 3005), and lotteries (18 U.S.C. 1302, 39 U.S.C. 3005). Broad authority to regulate unfair or deceptive acts or practices in commerce, including the practices of mail order merchants, has been vested in the Federal Trade Commission. Therefore, your Committee has amended the concurrent resolution by:

- (1) Requesting the Federal Trade Commission, in addition to the Postal Service to consider mechanisms to alleviate the problem of mail-in deadlines for distant states in the "BE IT RESOLVED" clause.
- (2) Providing that a copy of this concurrent resolution be transmitted to the Federal Trade Commission in the last "BE IT FURTHER RESOLVED" clause.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 872-84 Consumer Protection and Commerce on S.R. No. 2

The purpose of this resolution was to request the Federal Communications Commission (FCC) to take action to ensure that all citizens of the United States, including those who live in states and territories which are geographically remote from the continental United States receive equal access to toll-free numbers which are made available to persons living on the mainland.

Your Committee finds that the practices of many businesses which provide

toll-free telephone numbers exclude the residents of Hawaii, Alaska, and other territories of the United States which are distant from the mainland from the same free services as are made available to residents of the continental United States by limiting the area from which calls may be made to these numbers.

Your Committee received testimony from the Office of Consumer Protection transmitting information obtained from the American Telephone and Telegraph Co. (ATT) that the company filed a tariff with the FCC in October, 1983, which proposes a reduction in rates for service area six, which includes Hawaii and Alaska, to match the rates for service area five, which covers the entire continental United States. However, the effective date of this proposed tariff was deferred, apparently to allow the FCC an opportunity to further investigate all the tariffs proposed by ATT which affect long-distance services. ATT had proposed a tariff which would impose an access charge for long-distance service in the amount of \$2 for residential lines and \$6 for business lines. These access charges would have allowed ATT to reduce the charges for the 800 toll-free service. However, a recent ruling by the FCC rejected the proposed \$2 charge for residential lines, although it approved the \$6 charge for business lines. This action taken by the FCC leaves an uncertain future for ATT's proposed reduction in rates for the 800 toll-free service, and specifically for the tariff which would reduce the rates for service area six to match the rates for service area five.

Your Committee amended the BE IT RESOLVED clause of the resolution by adding the phrase, "or are provided notice in cases where toll-free numbers are not available for use in such states or territories" to strengthen the intent of the resolution.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.R. No. 2, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 873-84 Consumer Protection and Commerce on S.C.R. No. 2

The purpose of this concurrent resolution was to request the Federal Communications Commission (FCC) to take action to ensure that all citizens of the United States, including those who live in states and territories which are geographically remote from the continental United States receive equal access to toll-free numbers which are made available to persons living on the mainland.

Your Committee finds that the practices of many businesses which provide toll-free telephone numbers exclude the residents of Hawaii, Alaska, and other territories of the United States which are distant from the mainland from the same free services as are made available to residents of the continental United States by limiting the area from which calls may be made to these numbers.

Your Committee received testimony from the Office of Consumer Protection transmitting information obtained from the American Telephone and Telegraph Co. (ATT) that the company filed a tariff with the FCC in October, 1983, which proposes a reduction in rates for service area six, which includes Hawaii and Alaska, to match the rates for service area five, which covers the entire continental United States. However, the effective date of this proposed tariff was deferred, apparently to allow the FCC an opportunity to further investigate all the tariffs proposed by ATT which affect long-distance services. ATT had proposed a tariff which would impose an access charge for long-distance service in the amount of \$2 for residential lines and \$6 for business lines. These access charges would have allowed ATT to reduce the charges for the 800 toll-free service. However, a recent ruling by the FCC rejected the proposed \$2 charge for residential lines, although it approved the \$6 charge for business lines. This action taken by the FCC leaves an uncertain future for ATT's proposed reduction in rates for the 800 toll-free service, and specifically for the tariff which would reduce the rates for service area six to match the rates for service area five.

Your Committee amended the BE IT RESOLVED clause of the concurrent resolution by adding the phrase, "or are provided notice in cases where toll-free numbers are not available for use in such states or territories" to strengthen the intent of the resolution.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.C.R. No. 2, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 874-84 Consumer Protection and Commerce on S.R. No. 71

The purpose of this resolution is to request the Department of Commerce and Consumer Affairs and the Board of Cosmetology to review and recommend changes to improve the regulation of the beauty culture industry.

It is the intent of this resolution to study ways to better protect the general public through proper enforcement of regulations pertaining to hairdressers and cosmetologists and to insure that training standards are sufficiently upgraded to keep abreast of new developments in the field of cosmetology.

Your Committee finds that ongoing study of the beauty culture industry is in the public interest as the field is one that is constantly changing. It is also intended that this study provide a foundation for the anticipated sunset review of the beauty culture law, Chapter 439, Hawaii Revised Statutes, in 1986.

Your Committee finds that it is appropriate to invite input and/or participation of those who are to be regulated. Accordingly, your Committee has amended the resolution to add a new BE IT FURTHER RESOLVED clause after the BE IT RESOLVED clause to read as follows:

"BE IT FURTHER RESOLVED that the Department of Commerce and Consumer Affairs and the Board of Cosmetology, in conjunction with their joint review, invite input and/or participation of those who are to be regulated in order to obtain a wider and more balanced perspective of the study."

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 71, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 71, S.D. 1.

Signed by all members of the Committee.

SCRep. 875-84 Consumer Protection and Commerce on S.C.R. No. 60

The purpose of this concurrent resolution is to request the Department of Commerce and Consumer Affairs and the Board of Cosmetology to review and recommend changes to improve the regulation of the beauty culture industry.

It is the intent of this concurrent resolution to study ways to better protect the general public through proper enforcement of regulations pertaining to hairdressers and cosmetologists and to insure that training standards are sufficiently upgraded to keep abreast of new developments in the field of cosmetology.

Your Committee finds that ongoing study of the beauty culture industry is in the public interest as the field is one that is constantly changing. It is also intended that this study provide a foundation for the anticipated sunset review of the beauty culture law, Chapter 439, Hawaii Revised Statutes, in 1986.

Your Committee finds that it is appropriate to invite input and/or participation of those who are to be regulated. Accordingly, your Committee has amended the concurrent resolution to add a new BE IT FURTHER RESOLVED clause after the BE IT RESOLVED clause to read as follows:

"BE IT FURTHER RESOLVED that the Department of Commerce and Consumer Affairs and the Board of Cosmetology, in conjunction with their joint review, invite input and/or participation of those who are to be regulated in order to obtain a wider and more balanced perspective of the study."

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. 876-84 Consumer Protection and Commerce on S.R. No. 90

The purpose of this resolution is to request the Real Estate Commission to clarify the existing exemption of hotel operations from real estate licensing requirements.

Traditionally in Hawaii, hotel type operations have been exempt from real estate licensing requirements. However, there are individuals who manage and rent individual condominium units for owners and who try to escape the requirements of the real estate license law by claiming they are a hotel type operation.

Your Committee heard favorable testimony from the Hawaii Hotel Association and from the Real Estate Commission which stated that individuals renting condominium units for others should come under the real estate licensing law.

Your Committee agrees with the Commission's suggestion that the first "BE IT FURTHER RESOLVED" clause be deleted in order to provide interim safeguards to protect consumers while the study is being conducted and has amended the resolution accordingly.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 90, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 90, S.D. 1.

Signed by all members of the Committee.

SCRep. 877-84 Consumer Protection and Commerce on S.C.R. No. 80

The purpose of this concurrent resolution is to request the Real Estate Commission to clarify the existing exemption of hotel operations from real estate licensing requirements.

Traditionally in Hawaii, hotel type operations have been exempt from real estate licensing requirements. However, there are individuals who manage and rent individual condominium units for owners and who try to escape the requirements of the real estate license law by claiming they are a hotel type operation.

Your Committee heard favorable testimony from the Hawaii Hotel Association and from the Real Estate Commission which stated that individuals renting condominium units for others should come under the real estate licensing law.

Your Committee agrees with the Commission's suggestion that the first "BE IT FURTHER RESOLVED" clause be deleted in order to provide interim safeguards to protect consumers while the study is being conducted and has amended the resolution accordingly.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 80, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 80, S.D. 1.

Signed by all members of the Committee.

SCRep. 878-84 Housing and Urban Development on S.R. No. 96

The purpose of this resolution is to express concern regarding the continued use of Kaho'olawe as a shelling target by the Department of the Navy and the 1984 RIMPAC participants.

Your Committee finds that despite the designation of Kaho'olawe as an important cultural, historical, and archaeological site on the National Register of Historical Places, the United States Navy continues to use the island as a bombing target in its RIMPAC exercises. In 1982, naval exercises involved 60 warships and submarines including the aircraft carrier U.S.S. Ranger, 120 aircraft and 29,000 sailors and marines.

Further, the shelling of Kaho'olawe is not limited to the United States Navy but has been expanded to include the participation of Australia, Canada, New Zealand, Japan, and France at the invitation of the United States Navy. In 1982, out of respect for the concerns expressed by the people of Hawaii for

Kaho'olawe, both Australia and New Zealand declined to bomb Kaho'olawe during the RIMPAC exercises.

Your Committee finds that the use of Kaho'olawe for training and bombing exercises contributes to the destruction of the island's fragile environment and places the archaeological sites in constant danger of annihilation due to miscalculated gunfire or bombing.

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

Your Committee on Housing and Urban Development concurs with the intent and purpose of S.R. No. 96, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 96, S.D. 1.

Signed by all members of the Committee.

SCRep. 879-84 Human Resources on S.C.R. No. 111

The purpose of this concurrent resolution is to request Congress, in concert with the Secretary of Labor, to rescind federal statutes which hold that claimants are ineligible for unemployment insurance benefits if they were professional or nonprofessional employees of educational institutions during one term and have a reasonable assurance of being employed during the next academic term.

A basis for denying unemployment benefits to claimants, under current federal law, is that they were employed during one academic term and are reasonably assured that they will be reemployed or continue their employment during the next academic term. The fact that a claimant is involuntarily unemployed, is not being paid and is not performing services during periods between academic terms, such as a summer recess, is not a consideration in making a determination of eligibility for unemployment benefits.

Your Committee heard testimony by the Department of Labor and Industrial Relations to the effect that employees of educational institutions should be subject to the same eligibility requirements as all other unemployed workers, that is, they must be able to work, available for work, registered with the state employment office, and actively seeking employment. If these criteria are met, and if the claimant has a monetarily valid claim, the individual should be allowed to collect benefits.

After considering the issue and the testimony, your Committee finds that educational employees who are unemployed between academic terms through no fault of their own are in the same situation as seasonal workers in other occupations who are eligible for benefits under the law, and that present federal statutes are discriminatory, onerous and oppressive to dedicated workers in school-related occupations. Therefore, it is in the public interest to request Congress to rescind such statutes and allow Hawaii to administer its unemployment insurance laws equally to all eligible claimants.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 111 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 880-84 Tourism on S.R. No. 108

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) make all deliberate speed in reinstating the historic sites removed from the Hawaii Register of Historic Places in 1979 and present a status report to the Legislature prior to the convening of the Regular Session of 1985.

Your Committee finds that the removal of 579 sites from the Hawaii Register of Historic Places in 1979 due to a procedural error was a major setback to the protection of Hawaii's historic cultural resources.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 108 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 881-84 Tourism on S.R. No. 82

The purpose of this resolution is to request the Department of Accounting and General Services, in cooperation with the Friends of Iolani Palace to conduct a feasibility study and to prepare a preliminary design for the construction of below-grade parking facilities at the Iolani Palace grounds or below adjoining state-owned properties.

It is the intent of this resolution to eliminate the visible presence of automobile parking and traffic from around Iolani Palace to reflect the appearance that existed during the monarchy period.

Your Committee amended the resolution by changing the BE IT RESOLVED clause to request a feasibility study of developing underground or other alternative parking for Iolani Palace. The title of the resolution has been amended accordingly to reflect this change.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 82, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 82, S.D. 1.

Signed by all members of the Committee.

SCRep. 882-84 Tourism on S.C.R. No. 75

The purpose of this concurrent resolution is to request the Department of Accounting and General Services, in cooperation with the Friends of Iolani Palace to conduct a feasibility study and to prepare a preliminary design for the construction of below-grade parking facilities at the Iolani Palace grounds or below adjoining state-owned properties.

It is the intent of this concurrent resolution to eliminate the visible presence of automobile parking and traffic from around Iolani Palace to reflect the appearance that existed during the monarchy period.

Your Committee amended the concurrent resolution by changing the BE IT RESOLVED clause to request a feasibility study of developing underground or other alternative parking for Iolani Palace. The title of the concurrent resolution has been amended accordingly to reflect this change.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 75, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 75, S.D. 1.

Signed by all members of the Committee.

SCRep. 883-84 Tourism on S.R. No. 171

The purpose of this resolution is to urge the Department of Land and Natural Resources to expedite the acquisition of the Nike Access Road to provide a convenient public access to the State Mokuleia Forest Reserve.

Although there is public access to the State Mokuleia Forest Reserve from the Kaena Point Satellite Tracking Station, this route is not convenient and the access is an unpaved dirt road requiring a 4-wheel drive vehicle. The only other easement to the Forest Reserve from Farrington Highway is via the Nike access Road, a portion of which is part of the Mokuleia Homestead Ranch owned by Northwest Mutual Life. To obtain this access, the DLNR has been negotiating with representatives from Northwestern Mutual to provide an adequate easement to the Mokuleia Forest Reserve in their subdivision plan. The Division of Forestry and Wildlife has been working with the City and County in invoking Ordinance No. 4311, a public access easement requirement precedent to the approval of a subdivision. However, because of the slow real estate market, Northwest Mutual's subdivision plans are on hold and negotiations for access are also stalled.

Your Committee amended the resolution by inserting a new fourth WHEREAS clause describing other state owned lands that would be affected by the project.

Your Committee further amended the resolution to change the request in the

BE IT RESOLVED clause for the DLNR to show cause why acquisition could not be gained instead of why the acquisition is not needed. Your Committee finds that the issue is not whether access is needed but rather the impediments to acquisition.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 171, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 171, S.D. 1.

Signed by all members of the Committee.

SCRep. 884-84 Tourism on S.C.R. No. 136

The purpose of this concurrent resolution is to urge the Department of Land and Natural Resources to expedite the acquisition of the Nike Access Road to provide a convenient public access to the State Mokuleia Forest Reserve.

Although there is public access to the State Mokuleia Forest Reserve from the Kaena Point Satellite Tracking Station, this route is not convenient and the access is an unpaved dirt road requiring a 4-wheel drive vehicle. The only other easement to the Forest Reserve from Farrington Highway is via the Nike access Road, a portion of which is part of the Mokuleia Homestead Ranch owned by Northwest Mutual Life. To obtain this access, the DLNR has been negotiating with representatives from Northwestern Mutual to provide an adequate easement to the Mokuleia Forest Reserve in their subdivision plan. The Division of Forestry and Wildlife has been working with the City and County in invoking Ordinance No. 4311, a public access easement requirement precedent to the approval of a subdivision. However, because of the slow real estate market, Northwest Mutual's subdivision plans are on hold and negotiations for access are also stalled.

Your Committee amended the concurrent resolution by inserting a new fourth WHEREAS clause describing other state owned lands that would be affected by the project.

Your Committee further amended the concurrent resolution to change the request in the BE IT RESOLVED clause for the DLNR to show cause why acquisition could not be gained instead of why the acquisition is not needed. Your Committee finds that the issue is not whether access is needed but rather the impediments to acquisition.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 136, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 136, S.D. 1.

Signed by all members of the Committee.

SCRep. 885-84 Tourism on H.C.R. No. 130

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to contract with a private organization to conduct a study on the need for and the feasibility of a convention center in the State with the necessary exhibition and meeting areas that are capable of accommodating conferences that cannot be handled through existing conference facilities, including an analysis of alternative sites, and an analysis of methods of financing and management arrangements.

Your Committee finds that the convention market is a growing and profitable business segment which accounts for business spending nationwide of \$15 billion a year. This market is desirable for industry stability since conventions are typically scheduled well in advance and during the nonpeak tourist seasons. Despite the increase of conventions held in Hawaii during the past ten years, Hawaii is prevented from becoming a leading convention city due in part to its lack of adequate facilities. Currently only two major hotels have ballrooms designed to handle conventions and the only other convention facility, the Neal Blaisdell Center, is in an inconvenient location and is unsuitable for larger conventions. These factors have culminated in what appears to be a need for another modern convention center to attract a wider range of conventioners.

Your Committee finds that in order to remain competitive with other visitor destination areas, and provide greater stability to the tourist industry,

research should be conducted to determine ways to attract the convention market segment.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 130 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 886-84 Tourism on S.R. No. 145

The purpose of this resolution is to request the City and County of Honolulu to develop a master plan for the Koko Head Pistol and Skeet Shooting Range to include the establishment/expansion and improvement of the existing trap and skeet shooting range.

In recent years trap and skeet shooting has grown in popularity and is enjoyed by many island residents at all levels of skill. These pastimes provide enjoyment for shooters of both sexes of all ages.

Your Committee finds that expanding the opportunities to safely engage in trap and skeet shooting would add to the range of recreational opportunities for both residents and visitors.

Your Committee amended the resolution by changing the request that the City and County of Honolulu develop a master plan for expanding the Koko Head Pistol and Skeet Shooting Range to requesting that the City and County revise the Koko Head Regional Park Master Plan to include a competitive trap and skeet shooting range.

Your Committee further amended the resolution to request the Department of Land and Natural Resources to look into the possibility of using state lands in other areas of Oahu to establish trap and skeet shooting ranges as there is no City and County park sites suitable for such a project. Your Committee also amended the resolution to transmit a copy of the resolution to the Chairman of the Board of Land and Natural Resources.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 145, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 145, S.D. 1.

Signed by all members of the Committee.

SCRep. 887-84 Tourism on S.R. No. 139

The purpose of this resolution is to request the State Department of Transportation to review the dredging and navigational problems at Waikaea Canal near Kapaa, Kauai, and coordinate remedial efforts with the Department of Land and Natural Resources and the United States Coast Guard.

Your Committee finds that in 1970, the Statewide Boat Launching Facilities Master Plan (Master Plan) identified the Waikaea Canal boat launching ramp as the most popular on Kauai. The Master Plan concluded that due to sand accumulation in the access channel, boaters are required to push their boats over a sand bar during low tides, often damaging the vessels. Your Committee also finds that the situation has not changed since publication of the Master Plan and that fishermen and other boaters have, on numerous occasions, requested the State to provide adequate dredging of the canal. Although money has been appropriated for the dredging, the funds have not been released by the governor. Therefore, your Committee believes it is appropriate for the State Department of Transportation to review the situation at the Waikaea Canal and coordinate remedial efforts with the Department of Land and Natural Resources and the United States Coast Guard.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 139 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 888-84 Tourism on S.R. No. 112

The purpose of this resolution is to request the Department of Land and

Natural Resources to adopt clear policies regarding the role of community-based advisory committees in the planning process and to incorporate such policies in the department's administrative rules and wherever else possible.

Your Committee recognizes the importance of involving the public in the planning of the state historic parks and sites. Over the last few years public awareness of the rich cultural resources of the State has increased considerably. Many community groups wish to be actively involved in historic preservation efforts which should be encouraged. Historic parks are set up for public enjoyment and education, and public involvement in their planning can only enhance these goals.

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

Signed by all members of the Committee.

SCRep. 889-84 Tourism on H.C.R. No. 144

The purpose of this concurrent resolution is to request that Sister-State/Prefecture relationships be established between the State of Hawaii and the Hiroshima, Kumamoto, Okinawa, Tokyo, and Yamaguchi Prefectures.

Your Committee finds that a policy of establishing goodwill, cultural, business, and commercial ties between Hawaii and all other countries around the world is desirable, and exemplifies Hawaii's hospitality and aloha.

Hawaii's relationship with Japan is one with strong historical and ethnic ties. The year 1985 is the 125th anniversary of the opening of friendly relations between the United States of America and Japan and the 100th anniversary of Japanese immigration to Hawaii.

Your Committee finds that the present Sister-State/Prefecture affiliation between the State of Hawaii, U.S.A., and Fukuoka, Japan, has contributed to the social, economic, educational, and cultural growth of both Hawaii and Fukuoka.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 144 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 890-84 Tourism on H.C.R. No. 52

The purpose of this concurrent resolution is to authorize the use of concession agreements to assist the Department of Land and Natural Resources in providing state camping and lodging facilities and services.

According to testimony by the Department of Land and Natural Resources, present and anticipated fiscal constraints have reduced the Department's capacity to develop, operate, and maintain camping and cabin rental facilities at a satisfactory level of public service. Your Committee finds that the Department needs to find alternate means and that the use of concession agreements, pursuant to Chapter 184, Hawaii Revised Statutes, and an expanded use of private sector funds, pursuant to Section 171-60, Hawaii Revised Statutes, would enhance the Department's ability to continue to meet public recreational needs.

Your Committee also finds that four State parks on Oahu are appropriate sites where the Department may implement this program of the use of concession agreements: Waimanalo Bay State Recreation Area, Malaekahana State Recreation Area, Kaiaka State Recreation Area, and Wahiawa State Freshwater Park.

Your Committee on Tourism concurs with the intent and purpose of H.C.R. No. 52, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 891-84 (Joint) Health and Human Resources on S.C.R. No. 88

The purpose of this concurrent resolution is to request the Department of Social Services and Housing (DSSH) and the Department of Health (DOH) to consider the utilization of nurses in small intermediate care homes.

Currently, state law prohibits nurses from providing an intermediate level of care in a care home setting even when medically appropriate and cost effective. This concurrent resolution requests the DSSH and the DOH to consider allowing the use of nurses in this capacity.

Your Committees heard favorable testimony from the DSSH, the DOH, the Executive Office on Aging, the Waikiki Health Center, the Kokua Council for Senior Citizens and other private citizens supporting this concurrent resolution.

Your Committees on Health and Human Resources concur with the intent and purpose of S.C.R No. 88 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 892-84 Health on S.R. No. 101

The purpose of this resolution is to request the County of Hawaii to work with the Department of Health, County/State Hospitals Division, to create ALS/BLS Ambulance Service in the Honokaa, Kau and Kohala areas of the Big Island and to provide consistent emergency medical services to the County of Hawaii.

Currently, the County of Hawaii Fire Department provides ALS/BLS Ambulance services through five of its fire units and has trained MICT/EMT firefighters who could provide additional service to Honokaa, Kau and Kohala. The County/State Hospitals Division also provides BLS ambulance service to Honokaa, Kau and Kohala. However, the two entities lack a method of coordination by which they could jointly offer more comprehensive service of the highest quality.

Your Committee received testimony from the Department of Health to the effect that they support the resolution and will coordinate with the County of Hawaii Fire Department in developing a proposal for the establishment of the ALS/BLS units in Honokaa, Kau and Kohala. Therefore, your Committee finds that the resolution is feasible and should result in the upgrading of emergency medical services in rural areas of the Big Island, and to that regard the resolution reflects the commitment of the Senate to provide for the health and well-being of the people of our State.

Your Committee has amended the second WHEREAS clause to make a correction by deleting the word "residence" and inserting the word "residents".

Your Committee on Health concurs with the intent and purpose of S.R. No. 101, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 101, S.D. 1.

Signed by all members of the Committee.

SCRep. 893-84 (Joint) Health and Human Resources on S.R. No. 102

The purpose of this resolution is to request the Department of Social Services and Housing (DSSH) and the Department of Health (DOH) to consider the utilization of nurses in small intermediate care homes.

Currently, state law prohibits nurses from providing an intermediate level of care in a care home setting even when medically appropriate and cost effective. This resolution requests the DSSH and the DOH to consider allowing the use of nurses in this capacity.

Your Committees heard favorable testimony from the DSSH, the DOH, the Executive Office on Aging, the Waikiki Health Center, the Kokua Council for Senior Citizens and other private citizens supporting this resolution.

Your Committees on Health and Human Resources concur with the intent and purpose of S.R No. 102 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 894-84 Health on Gov. Msg. No. 318

Recommending that the Senate advise and consent to the nomination of JOHN

M. GOOCH, D.V.M., to the Windward Oahu Subarea Health Planning Council, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 895-84 (Majority) Government Operations and County Relations on
S.C.R. No. 7

The purpose of this concurrent resolution is to request the United States Congress to prepare and submit a constitutional amendment requiring, in the absence of national emergencies, a balancing of the federal budget, or to call a constitutional convention to propose such a constitutional amendment. It also requests the legislatures of the rest of the 50 States to take similar action.

There has been a deficit in the federal budget each year since 1970, which has been the cause of great concern to many people. To date, legislatures in 32 states have passed resolutions applying for a constitutional convention to propose amendments to require a balanced federal budget. The authority to call such a convention rests in Article V of the United States Constitution, which reads in part:

"The Congress...on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments..."

By passing this resolution, Hawaii would become the 33rd state out of the 34 necessary to require Congress to call a constitutional convention.

Your Committee received testimony from the National Taxpayers Union and many citizens who expressed grave concerns regarding the increasing federal budget, and finds that the need for fiscal responsibility in federal budgeting and spending is such an important concern to Hawaii's people and the people of America that mandatory restraint is warranted. This need greatly outweighs the concerns of the opponents of this measure that a constitutional convention would be a "runaway" and would raise a multitude of ancillary issues which would obscure or prejudice the original purpose of the convention.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.C.R. No. 7 and recommends it be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Machida, Hagino and Solomon.

Senator Abercrombie did not concur.

SCRep. 896-84 (Majority) Government Operations and County Relations on
S.C.R. No. 89

The purpose of this concurrent resolution is to request the President of the United States to stop military aid to Central America.

Your Committee finds that the United States government has spent almost one billion dollars in providing military aid to Central America. In these hard economic times your Committee finds that it would be more fiscally responsible to use this money for other purposes, such as domestic social programs and to balance the federal budget.

Your Committee finds that it would be in the interest of the people of Hawaii and the United States to put an end to the military build up in Central America and use money that would be diverted for further military aid to more productive and humane uses. Your Committee finds that there is a great concern among citizens that the situation in Central America will lead to a full scale Vietnam type conflict with similar devastating consequences.

Your Committee has received favorable testimonies from the Hawaii Council of Churches, The Hawaii Alliance and the Conference on Peace and Human Rights, Church Women United, Physicians for Social Responsibility and the Latin-American and Caribbean Solidarity Association. From these overwhelming testimonies your Committee finds that the public concern is great and that this resolution reflects the sentiments of a large number of Americans.

Your Committee has amended this concurrent resolution to request that Congress adopt certain policies of peace based on the following: (1) support for

Central and Latin American efforts to mediate where conflicts exist; (2) treaty of non-aggression and guarantee of borders; (3) urging withdrawal of military aid and supplies to all sides in El Salvador in recognition of the need to encourage negotiations to end the Civil War; (4) respect for self-determination of all people in Central America and non-interference in their internal affairs; (5) ending economic aggression and discrimination against Central America and an expression of willingness to negotiate economic assistance on a non-ideological basis; and (6) no foreign military bases, troops and foreign military exercises in the area.

Your Committee has further amended the concurrent resolution by deleting the second WHEREAS clause and making language changes which do not affect the intent of the concurrent resolution.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.C.R. No. 89, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 89, S.D. 1.

Signed by all members of the Committee except Senators Machida and Solomon.

Senators George and Soares did not concur.

SCRep. 897-84 (Majority) Government Operations and County Relations on
S.R. No. 103

The purpose of this resolution is to request the President of the United States to stop military aid to Central America.

Your Committee finds that the United States government has spent almost one billion dollars in providing military aid to Central America. In these hard economic times your Committee finds that it would be more fiscally responsible to use this money for other purposes, such as domestic social programs and to balance the federal budget.

Your Committee finds that it would be in the interest of the people of Hawaii and the United States to put an end to the military build up in Central America and use money that would be diverted for further military aid to more productive and humane uses. Your Committee finds that there is a great concern among citizens that the situation in Central America will lead to a full scale Vietnam type conflict with similar devastating consequences.

Your Committee has received favorable testimonies from the Hawaii Council of Churches, The Hawaii Alliance and the Conference on Peace and Human Rights, Church Women United, Physicians for Social Responsibility and the Latin-American and Caribbean Solidarity Association. From these overwhelming testimonies your Committee finds that the public concern is great and that this resolution reflects the sentiments of a large number of Americans.

Your Committee has amended this resolution to request that Congress adopt certain policies of peace based on the following: (1) support for Central and Latin-American efforts to mediate where conflicts exist; (2) treaty of non-aggression and guarantee of borders; (3) urging withdrawal of military aid and supplies to all sides in El Salvador in recognition of the need to encourage negotiations to end the Civil War; (4) respect for self-determination of all people in Central America and non-interference in their internal affairs; (5) ending economic aggression and discrimination against Central America and an expression of willingness to negotiate economic assistance on a non-ideological basis; and (6) no foreign military bases, troops and foreign military exercises in the area.

Your Committee has further amended the resolution by deleting the second WHEREAS clause and making language changes which do not affect the intent of the resolution.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.R. No. 103, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 103, S.D. 1.

Signed by all members of the Committee except Senators Machida and Solomon.

Senators George and Soares did not concur.

SCRep. 898-84 Government Operations and County Relations on S.C.R. No.
131

The purpose of this concurrent resolution is to request a feasibility study on establishing nuclear free zones in the State of Hawaii.

The buildup and stockpiling of nuclear weapons by the Soviet Union and the United States greatly increases the threat of nuclear war. This ever present danger has been the source of great anxiety and distress for many citizens of this State.

Your Committee finds that there is an urgent need to protect the citizens of this State from nuclear disaster. This concern has been evidenced by the ordinances adopted by the counties of Maui and Hawaii banning nuclear reactors or devices in these counties and its surrounding waters. Also, the City and County of Honolulu has adopted a resolution calling for a bilateral nuclear freeze by the United States and the Soviet Union. Your Committee further finds that there are questions regarding the propriety and legal effect of such actions by the various counties that need to be addressed on a statewide level. Therefore, your Committee recommends that an objective study be done to determine the feasibility of establishing nuclear-free zones in the State of Hawaii.

Your Committee finds that there is a responsibility to protect the environment, the future of the generations which will inherit the legacy of actions taken today and to insure the safety, health, productive environment and place for those future generations.

Your Committee has heard testimony in support of this concurrent resolution from the Hawaiian Political Action Council of Hawaii, the Kokua Council of Senior Citizens and the Hawaii Council of Churches.

Your Committee has amended this concurrent resolution by having certified copies sent to each member of Hawaii's congressional delegation and the above-mentioned citizen groups who expressed their concerns at the hearing. Your Committee has further amended this concurrent resolution by changing Office of the Attorney General to Department of the Attorney General.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.C.R. No. 131, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 131, S.D. 1.

Signed by all members of the Committee except Senators Machida, Hagino and Solomon.

SCRep. 899-84 Government Operations and County Relations on S.R. No.
166

The purpose of this resolution is to request a feasibility study on establishing nuclear free zones in the State of Hawaii.

The buildup and stockpiling of nuclear weapons by the Soviet Union and the United States greatly increases the threat of nuclear war. This ever present danger has been the source of great anxiety and distress for many citizens of this State.

Your Committee finds that there is an urgent need to protect the citizens of this State from nuclear disaster. This concern has been evidenced by the ordinances adopted by the counties of Maui and Hawaii banning nuclear reactors or devices in these counties and its surrounding waters. Also, the City and County of Honolulu has adopted a resolution calling for a bilateral nuclear freeze by the United States and the Soviet Union. Your Committee further finds that there are questions regarding the propriety and legal effect of such actions by the various counties that need to be addressed on a statewide level. Therefore, your Committee recommends that an objective study be done to determine the feasibility of establishing nuclear-free zones in the State of Hawaii.

Your Committee finds that there is a responsibility to protect the environment, the future of the generations which will inherit the legacy of actions taken today and to insure the safety, health, productive environment and place for those future generations.

Your Committee has heard testimony in support of this resolution from the Hawaiian Political Action Council of Hawaii, the Kokua Council of Senior Citizens and the Hawaii Council of Churches.

Your Committee has amended this resolution by having certified copies sent to each member of Hawaii's congressional delegation and the above-mentioned citizen groups who expressed their concerns at the hearing. Your Committee has further amended this resolution by changing Office of the Attorney General to Department of the Attorney General.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.R. No. 166, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 166, S.D. 1.

Signed by all members of the Committee except Senators Machida, Hagino and Solomon.

SCRep. 900-84 Economic Development on H.C.R. No. 11

The purpose of this concurrent resolution is to request a ban on the disposal of nuclear waste materials in the Pacific Basin.

During the nuclear fission process, large amounts of highly toxic radioactive wastes are produced. Such materials often contain radio isotopes that can remain active for a period between 100,000 to a million years. Nuclear wastes are a serious health hazard since they have been determined to have carcinogenic and mutagenic effects on human beings.

Presently it is estimated that over seventy-five million gallons of high level radioactive waste and several thousand metric tons of spent nuclear fuel are awaiting permanent disposal. Current disposal technology, however, cannot guarantee that nuclear wastes dumped into the Pacific Ocean will not contaminate the environment and present a health hazard to human populations. It has been shown that corrosion of one-third of the barrels of radioactive waste dumped at sea prior to 1970 has had a deleterious effect on marine life off the California coast.

Your Committee finds that in light of evidence demonstrating the risks of contamination from dumping nuclear waste in the Pacific and a lack of research and information on safe disposal methods, it is reasonable and prudent that disposal of nuclear waste at sea be stopped until potential health hazards associated with such disposal can be eliminated.

Accordingly, your Committee amended the title of the resolution to request a moratorium instead of a ban on the disposal of nuclear waste. The BE IT RESOLVED clause was similarly amended to reflect this change and language was added to specify that the moratorium remain in effect until environmentally safe methods of nuclear waste disposal are devised.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 11, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 11, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 901-84 Economic Development on S.C.R. No. 113

The purpose of this concurrent resolution is to request an investigation into the possibility of establishing film production facilities on Molokai or Lanai.

The film industry, which has nearly doubled in size since 1976, is important to the State's economy. Although an estimated \$35.2 million was spent in the State by film companies in 1983, only a very limited amount has been spent on Molokai despite the Island's varied scenic opportunities.

Your Committee received testimony that the Molokai Inter-Division Committee was discharged after completing its report on Molokai's economy. Therefore, your Committee has amended the concurrent resolution to request the Department of Planning and Economic Development Film Office to effectuate the purposes of this concurrent resolution.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 113, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 113, S.D. 1.

Signed by all members of the Committee.

SCRep. 902-84 Economic Development on S.R. No. 134

The purpose of this resolution is to request an investigation into the possibility of establishing film production facilities on Molokai or Lanai.

The film industry, which has nearly doubled in size since 1976, is important to the State's economy. Although an estimated \$35.2 million was spent in the State by film companies in 1983, only a very limited amount has been spent on Molokai despite the Island's varied scenic opportunities.

Your Committee received testimony that the Molokai Inter-Division Committee was discharged after completing its report on Molokai's economy. Therefore, your Committee has amended the resolution to request the Department of Planning and Economic Development Film Office to effectuate the purposes of this resolution.

Your Committee on Economic Development 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.

SCRep. 903-84 Government Operations and County Relations on S.R. No.
29

The purpose of this resolution is to request Hawaii's congressional delegation to work towards the continuation of the Federal-State cooperative agreement on interline agricultural inspections at neighbor island airports which was scheduled to terminate on April 1, 1984.

For the past six years the State of Hawaii and the United States Department of Agriculture (USDA) have had a cooperative agreement on interline agricultural inspections at neighbor island airports. Under this agreement, agricultural inspectors of the State Department of Agriculture inspect the baggage of travelers who depart from neighbor island airports for the mainland, but stop over at Honolulu. Therefore, travelers are not burdened with another inspection at the Honolulu terminal and their baggage can go directly to the next flight.

Your Committee notes that funding for this program began with both the State and the USDA agreeing to pay an equal share of its costs. In recent years the cost of maintaining this program has gone up but the USDA has not increased its share while the State now picks up approximately sixty per cent of the costs. For example, in fiscal year 1983, the total cost of this program was \$630,000, of which the State paid approximately \$380,000. The USDA paid only \$250,000, the same amount that the USDA paid in 1981.

Your Committee has heard testimony from the State Department of Agriculture and the Honolulu Airlines Committee, which informed your Committee that there has been an agreement reached between the State and the USDA for a smooth transition to a total federal operation of this program. This agreement calls for the continuation of the present agreement through September 30, 1984, and a transitional period from October 1, 1984 through September 30, 1985, during which time the USDA will gradually convert the neighbor island inspection program to a federally manned inspection force. On October 1, 1985, the USDA will assume total control over the program. However, the USDA's position is that after October 1, 1985 the State should continue to contribute towards funding of the neighbor island inspection program. If the costs of this operation increase, the State's share would also increase while the USDA would pay the same amount as it did in 1981.

Your Committee has amended this resolution to reflect the new agreement between the State and the USDA by: 1) Deleting the third and eighth through sixteenth "WHEREAS" paragraphs, 2) Adding three new "WHEREAS" paragraphs before the "BE IT RESOLVED" paragraph explaining the new agreement and the USDA's position regarding State funding, 3) Amending the "BE IT RESOLVED"

paragraph to reflect the new agreement and request Hawaii's congressional delegation to work towards full federal funding for the inspection program, and 4) Amending the title of the resolution to reflect the new purpose of the resolution.

Your Committee has further amended this resolution by inserting the words "a federal-state" before the words "cooperative agreement" in the fourth "WHEREAS" clause of the resolution as received and making minor language changes which have no substantive effect.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.R. No. 29, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 29, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Cobb, Solomon, Uwane and Soares.

SCRep. 904-84 Government Operations and County Relations on S.C.R. No.
30

The purpose of this concurrent resolution is to request the President of the United States, Secretary of Agriculture, Secretary of Commerce, and Secretary of Transportation to rescind the order terminating the Federal-State cooperative agreement on interline agricultural inspections at neighbor island airports.

For the past six years the State of Hawaii and the United States Department of Agriculture (USDA) have had a cooperative agreement on interline agricultural inspections at neighbor island airports. Under this agreement, agricultural inspectors of the State Department of Agriculture inspect the baggage of travelers who depart from neighbor island airports for the mainland, but stop over at Honolulu. Therefore, travelers are not burdened with another inspection at the Honolulu terminal and their baggage can go directly to the next flight.

Your Committee notes that funding for this program began with both the State and the USDA agreeing to pay an equal share of its costs. In recent years the cost of maintaining this program has gone up but the USDA has not increased its share while the State now picks up approximately sixty per cent of the costs. For example, in fiscal year 1983, the total cost of this program was \$630,000, of which the State paid approximately \$380,000. The USDA paid only \$250,000, the same amount that the USDA paid in 1981.

Your Committee has heard testimony from the State Department of Agriculture and the Honolulu Airlines Committee, which informed your Committee that there has been an agreement reached between the State and the USDA for a smooth transition to a total federal operation of this program. This agreement calls for the continuation of the present agreement through September 30, 1984, and a transitional period from October 1, 1984 through September 30, 1985, during which time the USDA will gradually convert the neighbor island inspection program to a federally manned inspection force. On October 1, 1985, the USDA will assume total control over the program. However, the USDA's position is that after October 1, 1985 the State should continue to contribute towards funding of the neighbor island inspection program. If the costs of this operation increase, the State's share would also increase while the USDA would pay the same amount as it did in 1981.

Your Committee has amended this concurrent resolution to reflect the new agreement between the State and the USDA by: 1) Deleting the third and eighth through sixteenth "WHEREAS" paragraphs, 2) Adding three new "WHEREAS" paragraphs before the "BE IT RESOLVED" paragraph explaining the new agreement and the USDA's position regarding State funding, 3) Amending the "BE IT RESOLVED" paragraph to reflect the new agreement and request the President of the United States, Secretary of Agriculture, Secretary of Commerce, and Secretary of Transportation to work towards full federal funding for the inspection program, and 4) Amending the title of the resolution to reflect the new purpose of the resolution.

Your Committee has further amended this concurrent resolution by making clarifying language changes which do not affect the intent of the measure.

Your Committee on Government Operations and County Relations concurs with

the intent and purpose of S.C.R. No. 30, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 30, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Cobb, Solomon, Uwaine and Soares.

SCRep. 905-84 Government Operations and County Relations on S.C.R. No. 29

The purpose of this concurrent resolution is to request Hawaii's congressional delegation to work towards the continuation of the Federal-State cooperative agreement on interline agricultural inspections at neighbor island airports which was scheduled to terminate on April 1, 1984.

For the past six years the State of Hawaii and the United States Department of Agriculture (USDA) have had a cooperative agreement on interline agricultural inspections at neighbor island airports. Under this agreement, agricultural inspectors of the State Department of Agriculture inspect the baggage of travelers who depart from neighbor island airports for the mainland, but stop over at Honolulu. Therefore, travelers are not burdened with another inspection at the Honolulu terminal and their baggage can go directly to the next flight.

Your Committee notes that funding for this program began with both the State and the USDA agreeing to pay an equal share of its costs. In recent years the cost of maintaining this program has gone up but the USDA has not increased its share while the State now picks up approximately sixty per cent of the costs. For example, in fiscal year 1983, the total cost of this program was \$630,000, of which the State paid approximately \$380,000. The USDA paid only \$250,000, the same amount that the USDA paid in 1981.

Your Committee has heard testimony from the State Department of Agriculture and the Honolulu Airlines Committee, which informed your Committee that there has been an agreement reached between the State and the USDA for a smooth transition to a total federal operation of this program. This agreement calls for the continuation of the present agreement through September 30, 1984, and a transitional period from October 1, 1984 through September 30, 1985, during which time the USDA will gradually convert the neighbor island inspection program to a federally manned inspection force. On October 1, 1985, the USDA will assume total control over the program. However, the USDA's position is that after October 1, 1985 the State should continue to contribute towards funding of the neighbor island inspection program. If the costs of this operation increase, the State's share would also increase while the USDA would pay the same amount as it did in 1981.

Your Committee has amended this concurrent resolution to reflect the new agreement between the State and the USDA by: 1) Deleting the third and eighth through sixteenth "WHEREAS" paragraphs, 2) Adding three new "WHEREAS" paragraphs before the "BE IT RESOLVED" paragraph explaining the new agreement and the USDA's position regarding State funding, 3) Amending the "BE IT RESOLVED" paragraph to reflect the new agreement and request Hawaii's congressional delegation to work towards full federal funding for the inspection program, and 4) Amending the title of the resolution to reflect the new purpose of the resolution.

Your Committee has further amended this concurrent resolution by inserting the words "a federal-state" before the words "cooperative agreement" in the fourth "WHEREAS" clause of the resolution as received and making minor language changes which have no substantive effect.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of S.C.R. No. 29, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 29, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Cobb, Solomon, Uwaine and Soares.

SCRep. 906-84 Government Operations and County Relations on H.C.R. No. 71

The purpose of this concurrent resolution is to request the active encouragement of homeporting a larger segment of the U.S. Fleet at Pearl Harbor as a

means of increasing the economic base of the State of Hawaii and in providing the potential for private sector growth in the ship repair and associated services industries.

Your Committee finds that the homeporting of a larger segment of the U.S. Fleet at Pearl Harbor would increase the number of new jobs and improve Hawaii's economy.

Your Committee on Government Operations and County Relations concurs with the intent and purpose of H.C.R. No. 71, H.D. 2, and recommends its adoption.

Signed by all members of the Committee except Senator Solomon.

SCRep. 907-84 Transportation on S.R. No. 157

The purpose of this resolution is to request the Department of Transportation to provide immediate improvements to general aviation facilities at Honolulu International Airport and to other airports in the State.

Your Committee recognizes that general aviation encompasses all private and commercial flying other than commercial airlines which serve a variety of community needs: air cargo, mail, air ambulance, air taxi and commuter, agriculture, charter, police, fire, corporate and individual travel, sightseeing, educational, recreational, and flight training purposes.

Testimony from the Department of Transportation itemizes future, ongoing, and finished capital improvements provided by the Department. Their testimony also expresses concern that the demands of general aviation far exceed their ability to pay for the services and believe it unreasonable to require other airport users to further subsidize the personal and recreational needs of general aviation.

Testimony from the General Aviation Council indicates that delays by the Department of Transportation, partially due to the proposed reliever airport, have resulted in serious deficiencies. Specific concerns are 1) security needs, particularly at Honolulu International Airport, 2) adequate hangar and tie-down space, 3) itinerant parking facilities on neighbor islands.

Your Committee, based on testimony, strongly urges the Department of Transportation to additionally include in their report to the Legislature and to General Aviation Council the nature of future programs for general aviation throughout the State.

Your Committee on Transportation concurs with the intent and purposes of S.R. No. 157, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 908-84 Transportation on H.C.R. No. 87

The purpose of this concurrent resolution is to request the Director of Transportation to grant unused wharfage space at no cost to commercial fishing vessels for short-term storage, repair, and maintenance of their fishing nets in order to attract purse seining tuna fleets to Hawaii.

Currently, purse seiners are assessed fees based on a minimum rent period of fifteen days for use of pier space to spread their nets for repair and maintenance. However, requirements for net repair generally involve only two to three days.

Your Committee heard from the Department of Land and Natural Resources, the Chamber of Commerce of Hawaii, the Homeport Hawaii Task Force, and the Hawaii Federal Employees Metal Trades Council who strongly supported the resolution, testifying to the benefits of the purse seiners to related local industries.

Your Committee also heard testimony from the Department of Transportation which supports the expansion of the commercial fishing industry but opposes the complete waiver of fees to the purse seining fleet. The department testified that it is presently reviewing the existing tariff rates to consider a daily rate

for net storage and/or repair and a discount from storage rates while the nets are under repair.

Your Committee strongly favors such changes and discounts as an incentive to the fishing fleets to utilize Hawaii's services and facilities and urges the Department of Transportation to implement these changes as soon as possible.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 87, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 909-84 Transportation on Gov. Msg. No. 264

Recommending that the Senate advise and consent to the nomination of GEORGE K. SANO to the Commission on Transportation, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 910-84 Education on Gov. Msg. Nos. 285 and 286

Recommending that the Senate advise and consent to the nominations of the following:

SAM LEONG to the Library Advisory Commission, County of Hawaii, for a term ending December 31, 1984;

HELEN K. TAYAMEN, MAILE ANN RIERSON and LILY YURIKO INOUYE to the Library Advisory Commission, County of Hawaii, for terms ending December 31, 1987;

RUFINA K. MOLAKA-LEE to the King Kamehameha Celebration Commission, for a term ending December 31, 1985;

MANU KAHAIALII and RAMONA N. TEVES to the King Kamehameha Celebration Commission, for terms ending December 31, 1986; and

ANNE K. INAINA KAAPANA, BEATRICE H. ROSA and HENRY CHO, Sr., to the King Kamehameha Celebration Commission, for terms ending December 31, 1987.

Signed by all members of the Committee except Senator Aki.

SCRep. 911-84 Health on H.C.R. No. 94

The purpose of this concurrent resolution is to urge the federal Environmental Protection Agency to increase its efforts to establish standards for maximum permissible levels of toxicants in the environment and to strengthen federal pesticide registration information.

Your Committee received testimony in support of this concurrent resolution from the Department of Health and the Office of Environmental Quality Control.

The establishment of federal standards would provide a framework in which the State could make decisions and take actions to protect the public's health. Your Committee finds a need for toxicological and health risk information in determining appropriate actions to be taken.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 94, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 912-84 (Joint) Health and Human Resources on S.R. No. 154

The purpose of this resolution is to request the Senate Committees on Health and Human Resources to study the employee classification schedules of Hawaii's private, nonprofit human services agencies in order to establish classification and compensation schedules comparable with State civil service.

There is a unique partnership between public and private agencies that carry out the public purpose through purchase of services contracts with various State departments. However, the constantly broadening gap between the salaries paid in the public and private sectors for similar job functions threatens the quality of services the private nonprofit sector is able to offer. In fact, it is not uncommon in the private sector for an agency to frequently lose qualified personnel because of inability to provide suitable wages. Additionally, Chapter 42, Hawaii Revised Statutes, provides that recipients of purchase of services contracts may not increase employee benefits or wages without prior approval of the director of the expending agency without having the award reduced by an amount equal to the unapproved increase.

Your Committees heard testimony expressing support for this resolution from the Department of Personnel Services, the Statewide Human Services Action Council, and Kapiolani/Children's Medical Center, and find that the gap between public and private sector salaries and benefits presents a substantial barrier to the State's ability to provide essential services mandated by law. Your Committees wish to note that awards to private agencies which used to take the form of grants-in-aid will, in the future, be considered purchases of services and provided for in the State departments' budgets. Since employees of these agencies will, in effect, be State employees, it is only fitting and proper that they should be compensated comparably with their counterparts in public service. This resolution will provide an invaluable source of information to assist the State departments with evaluating and awarding purchase of service contracts, and will go a long way towards helping the private nonprofit agencies attract and retain qualified personnel.

Your Committees on Health and Human Resources concur with the intent and purpose of S.R. No. 154 and recommend that it be referred to the Committee on Legislative Management.

Signed by all members of the Committees except Senators Aki, Holt and A. Kobayashi.

SCRep. 913-84 Health on H.C.R. No. 39

The purpose of this concurrent resolution is to request the Office of Environmental Quality Control to determine the source of EDB contamination of the Waipahu wells and to request Hawaii's congressional delegation to assist in contacting the military to obtain information about the location and condition of its field fuel storage tanks and whether any problems have been encountered in the past with fuel leakages.

Four wells in Waipahu which served as drinking water sources were found to be contaminated with EDB, resulting in their closure in July 1983. The closure was necessitated by an acknowledged potential danger to the public health since, although its exact effects on humans is not known, EDB has caused cancer, genetic change, and infertility in laboratory animals. Since EDB is a component of certain fuels, a possible source of the EDB contamination is the military's underground fuel storage tanks in Leeward Oahu.

Your Committee heard testimony from the Departments of Agriculture and Health, and the Office of Environmental Quality Control, all supporting the intent of this resolution, and finds that the investigation of EDB contamination authorized by this concurrent resolution is necessary and in the public interest.

Your Committee has amended the concurrent resolution to:

- (1) Correct a typographical error in the fourth "WHEREAS" clause which indicated that the Environmental Protection Agency has issued an emergency suspension of the sale of EDB in September, 1984. The suspension was actually initiated on September 28, 1983. The concurrent resolution has been amended to read accordingly.
- (2) Correct the first "BE IT FURTHER RESOLVED" clause to reflect that the determination of the source of EDB contamination be reported to the Legislature by the Office of Environmental Quality Control, the body that will conduct the investigation, rather than the Governor's Ad Hoc Committee on Water, which was to be the investigating body under the concurrent resolution as introduced.

- (3) Correct a typographical error in the second "BE IT FURTHER RESOLVED" clause by replacing the word "encouraged" with the word "encountered".

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 39, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 39, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 914-84 Health on H.C.R. No. 105

The purpose of this concurrent resolution is to request the federal Environmental Protection Agency to establish safety standards for drinking water with respect to chemical contaminants.

Your Committee finds that chemicals have been found in Hawaii's drinking water for which there are no established safety standards. This has created difficulty for the State in determining what levels of contamination are not safe for human consumption and when sources of drinking water should be closed.

Your Committee received testimony from the Deputy Director of the Department of Health's Environmental Protection and Health Services Division in favor of this concurrent resolution.

Your Committee finds that this concurrent resolution recognizes the State's need for technical support in the area of chemical contamination. Maximum contaminant standards would provide a basis for state action to protect the public's health.

Your Committee has amended the concurrent resolution by correcting a typographical error and by making style and language changes which do not affect the intent of the measure.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 105, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 105, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 915-84 (Joint) Consumer Protection and Commerce and Human
Resources on S.C.R. No. 118

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study of the most feasible means of implementing Legislative changes to allow for the reimbursement of clinical social workers under federal Medicaid and Medicare plans and under the Hawaii insurance law.

Presently, Chapters 431 and 433, Hawaii Revised Statutes, provide for the reimbursement of licensed physicians (psychiatrists) for services covered by individual or group accident or sickness policies and hospital and medical service plan contracts.

Your Committees find that while their training and methods do vary from psychiatrists and psychologists, clinical social workers are qualified to provide mental health care and frequently are the only providers available in many rural areas on Oahu and on the neighbor islands. Social workers in private practice make home visits and make their services easily accessible to all clients. Because reimbursement for such services is denied under government and private health plans, many consumers in need of mental health care services are being deprived of receiving the treatment they need and may be unnecessarily hospitalized or institutionalized.

Your Committees find that conducting a feasibility study is the first step to correcting this inequity for clinical social workers or finding alternatives to enable the public to more fully utilize their services.

Your Committees amended the concurrent resolution to include in the study the feasibility of providing reimbursement for clinical social workers under self-insured employer plans and those plans offered by health maintenance organizations (HMO's) in order to obtain a broader perspective of this issue.

Your Committees further amended the concurrent resolution without affecting its intent by deleting unnecessary language.

Your Committees on Consumer Protection and Commerce and Human Resources concur with the intent and purpose of S.C.R. No. 118, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 118, S.D. 1.

Signed by all members of the Committees.

SCRep. 916-84 (Joint) Consumer Protection and Commerce and Human Resources on S.R. No. 143

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study of the most feasible means of implementing Legislative changes to allow for the reimbursement of clinical social workers under federal Medicaid and Medicare plans and under the Hawaii insurance law.

Presently, Chapters 431 and 433, Hawaii Revised Statutes, provide for the reimbursement of licensed physicians (psychiatrists) for services covered by individual or group accident or sickness policies and hospital and medical service plan contracts.

Your Committees find that while their training and methods do vary from psychiatrists and psychologists, clinical social workers are qualified to provide mental health care and frequently are the only providers available in many rural areas on Oahu and on the neighbor islands. Social workers in private practice make home visits and make their services easily accessible to all clients. Because reimbursement for such services is denied under government and private health plans, many consumers in need of mental health care services are being deprived of receiving the treatment they need and may be unnecessarily hospitalized or institutionalized.

Your Committees find that conducting a feasibility study is the first step to correcting this inequity for clinical social workers or finding alternatives to enable the public to more fully utilize their services.

Your Committees amended the resolution to include in the study the feasibility of providing reimbursement for clinical social workers under self-insured employer plans and those plans offered by health maintenance organizations (HMO's) in order to obtain a broader perspective of this issue. Your Committees further amended the resolution without affecting its intent by deleting unnecessary language.

Your Committees on Consumer Protection and Commerce and Human Resources concur with the intent and purpose of S.R. No. 143, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 143, S.D. 1.

Signed by all members of the Committees.

SCRep. 917-84 Consumer Protection and Commerce on S.R. No. 158

The purpose of this resolution is to request the Department of Commerce and Consumer Affairs, with the cooperation of the Real Estate Commission, to update the study prepared in 1981 regarding the adequacy of current state regulating bodies and the feasibility of establishing a separate real estate division within the Department.

The study would include a review of the responsibilities and workload of the Real Estate Commission and suggested recommendations in order to correct any problems regarding manpower and organizational structure. Further, the Department is asked to look into the possibility of reallocating funds in excess of allocated costs to support the Real Estate Commission's five-year education program for real estate licensees and the public.

Currently, the Commission has numerous responsibilities such as reviewing the possible establishment of a real estate resource center, the publication of a bi-monthly news bulletin, educational requirements for inactive licensees, the Horizontal Property Regimes law, the drafting of a residential property transfer code, and a review of three consumer surveys regarding consumer attitudes toward real estate licensees.

The review of the feasibility of establishing a separate division for real estate will provide needed information and recommendations to streamline operations.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 158 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 918-84 Consumer Protection and Commerce on S.C.R. No. 122

The purpose of this concurrent resolution is to request the Department of Commerce and Consumer Affairs, with the cooperation of the Real Estate Commission, to update the study prepared in 1981 regarding the adequacy of current state regulating bodies and the feasibility of establishing a separate real estate division within the Department.

The study would include a review of the responsibilities and workload of the Real Estate Commission and suggested recommendations in order to correct any problems regarding manpower and organizational structure. Further, the Department is asked to look into the possibility of reallocating funds in excess of allocated costs to support the Real Estate Commission's five-year education program for real estate licensees and the public.

Currently, the Commission has numerous responsibilities such as reviewing the possible establishment of a real estate resource center, the publication of a bi-monthly news bulletin, educational requirements for inactive licensees, the Horizontal Property Regimes law, the drafting of a residential property transfer code, and a review of three consumer surveys regarding consumer attitudes toward real estate licensees.

The review of the feasibility of establishing a separate division for real estate will provide needed information and recommendations to streamline operations.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 122 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 919-84 Consumer Protection and Commerce on S.R. No. 140

The purpose of this resolution was to request the Legislative Reference Bureau, in consultation with the Insurance Division of the Department of Commerce and Consumer Affairs, to study and evaluate the manner in which insurance claims resulting from damage caused by Hurricane Iwa on the Island of Kauai were processed and adjudicated.

Your Committee received testimony on S.R. No. 140 from the Department of Commerce and Consumer Affairs, the Hawaii Independent Insurance Agents Association, and the Hawaii Insurers Council. Based on testimony received, your Committee finds that the insurance industry, as a whole, performed well in the processing and adjudication of insurance claims resulting from Hurricane Iwa, although there were some areas where services to customers could be improved. Your Committee further concludes that, in light of the performance of the insurance industry in response to Hurricane Iwa, the proposed study requested by this resolution should be more limited in scope than was originally intended. Therefore, your Committee has amended S.R. No. 140 by:

1. Deleting the first and second "BE IT FURTHER RESOLVED" clauses.
2. Deleting reference to the Legislative Reference Bureau in the "BE IT RESOLVED" clause and the third and fourth "BE IT FURTHER RESOLVED" clauses.
3. Specifying in the "BE IT RESOLVED" clause the three limited areas which this resolution requests for study by the Insurance Division of the Department of Commerce and Consumer Affairs.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 140, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 140, S.D. 1.

Signed by all members of the Committee.

SCRep. 920-84 (Joint) Consumer Protection and Commerce and
Transportation on S.R. No. 66

The purpose of this resolution was to request the Director of Transportation in conjunction with the Chief of Police of each county to obtain information concerning motorcycle accidents and request the Insurance Commissioner to direct all insurance companies to report all personal injury protection losses for motorcycles.

Currently, there is no such data available. This resolution requests the compilation of data concerning: 1) drivers safety courses, 2) safety helmets, 3) military status of the motorcycle operator or passenger, and 4) make and engine size of the motorcycle involved. This resolution also requests information on: 1) losses attributable to single and multi-vehicle accidents; 2) breakdown of personal injury payments; and 3) allocation of losses attributable to certain persons and reimbursement to the military.

Your Committee heard favorable testimony from the Department of Transportation, the Department of Commerce and Consumer Affairs, the Police Department of the City and County of Honolulu, the Hawaii Business League, and Street Bikers United, supporting the intent of this resolution.

Upon further consideration, your Committees have amended the resolution by:

(1) Amending the third "WHEREAS" clause and the first "BE IT FURTHER RESOLVED" clause to limit the report to motorcycle accidents resulting in serious injury or death.

(2) Amending the "BE IT RESOLVED" clause to request that the information compiled by the police departments be on a standard page or half page form developed by the Department of Transportation in conjunction with the chiefs of police of each county in the State.

(3) Adding a new "BE IT FURTHER RESOLVED" clause to request the Senate Committee on Ways and Means to identify available funds for appropriation to the Department of Commerce and Consumer Affairs for the purpose of hiring a clerk-typist to input the information requested by this resolution.

(4) Adding the Senate Committee on Ways and Means as a recipient of a certified copy of the resolution.

Your Committees on Consumer Protection and Commerce and Transportation concur with the intent and purpose of S.R. No. 66, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 66, S.D. 1.

Signed by all members of the Committees.

SCRep. 921-84 Consumer Protection and Commerce on S.R. No. 106

The purpose of this resolution is to request the Legislative Reference Bureau to study Hawaii's laws pertaining to housing cooperatives and to make recommendations as to how these laws should be amended in order that shareholders of cooperative apartments are afforded protection equal to that afforded owners of condominium units.

Your Committee finds that the proposed study, to be prepared by the Legislative Reference Bureau, in coordination with the Business Registration Division of the Department of Commerce and Consumer Affairs, the Real Estate Commission, and the Hawaii Bar Association, will benefit both owners of condominium units and shareholders of cooperative apartments by providing these groups with equal statutory protection in areas of internal management.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 106 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 922-84 Transportation on S.C.R. No. 61

The purpose of this concurrent resolution is to request the Legislative Auditor to study the feasibility of establishing an appointed public port authority with jurisdiction over all of Hawaii's commercial harbors, listing the advantages and disadvantages it would have over the current State system.

Your Committee finds that future shipping demand increases require expensive improvement of the commercial harbor system. In order to meet this responsibility, the authority may impose user fees and charges, and may issue bonds to raise revenue needed to make the system a self-sustaining operation.

Your Committee also finds that the operation and improvement of the commercial harbors may be better undertaken by a collective body responsible for a single program, rather than a single department with responsibility for air and land as well as water transportation.

Your Committee heard favorable testimony from the Department of Transportation, Propeller Club of the United States (Port of Honolulu), The Chamber of Commerce of Hawaii, and harbor pilot Captain Leonard A. Stenback.

Your Committee amended this resolution to add:

- (a) that the Legislative Auditor contact various organizations, such as Dillingham Maritime Pacific Division; Matson Navigation Company; Hawaii Pilots (HPBS Inc.); The Chamber of Commerce of Hawaii; Propeller Club of the United States (Port of Honolulu); ILWU; Homeport Hawaii Task Force; and mainland port authorities for assistance, information, and ideas;
- (b) that in order to meet future shipping demand increases, the need to actively market and promote Hawaii as a port of call is necessary to attract and increase shipping and trade for economic development, and to contribute to harbor revenue; and
- (c) that the Department of Transportation submit a separate report also listing the advantages and disadvantages a public port system would have over the current system.

Your Committee on Transportation is in accord with the intent and purpose of S.C.R. No. 61, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 61, S.D. 1.

Signed by all members of the Committee.

SCRep. 923-84 Transportation on S.R. No. 72

The purpose of this resolution is to request the Legislative Auditor to study the feasibility of establishing an appointed public port authority with jurisdiction over all of Hawaii's commercial harbors, listing the advantages and disadvantages it would have over the current State system.

Your Committee finds that future shipping demand increases require expensive improvement of the commercial harbor system. In order to meet this responsibility, the authority may impose user fees and charges, and may issue bonds to raise revenue needed to make the system a self-sustaining operation.

Your Committee also finds that the operation and improvement of the commercial harbors may be better undertaken by a collective body responsible for a single program, rather than a single department with responsibility for air and land as well as water transportation.

Your Committee heard favorable testimony from the Department of Transportation, Propeller Club of the United States (Port of Honolulu), The Chamber of Commerce of Hawaii, and harbor pilot Captain Leonard A. Stenback.

Your Committee amended this resolution to add:

- (a) that the Legislative Auditor contact various organizations, such as Dillingham Maritime Pacific Division; Matson Navigation Company; Hawaii Pilots (HPBS Inc.); The Chamber of Commerce of Hawaii; Propeller Club

of the United States (Port of Honolulu); ILWU; Homeport Hawaii Task Force; and mainland port authorities for assistance, information, and ideas;

- (b) that in order to meet future shipping demand increases, the need to actively market and promote Hawaii as a port of call is necessary to attract and increase shipping and trade for economic development, and to contribute to harbor revenue; and
- (c) that the Department of Transportation submit a separate report also listing the advantages and disadvantages a public port system would have over the current system.

Your Committee on Transportation is in accord with the intent and purpose of S.R. No. 72, as amended herein, and recommends that it be referred to the Committee on Legislative Management as S.R. No. 72, S.D. 1.

Signed by all members of the Committee.

SCRep. 924-84 Economic Development on H.C.R. No. 78

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study the feasibility of establishing a state Environmental Protection Agency, or similar body, to coordinate and address matters of environmental quality.

Hawaii's current move into the field of high technology presents a great likelihood that the hazardous and toxic substances used by these industries may endanger the public health, safety, and well-being. A joint House-Senate interim report indicates that in light of these real and impending risks, there is a great need for coordinating and reorganizing state environmental monitoring and risk assessment functions, and the Council of State Governments reports that thirty-one states have already established environmental protection bodies of one kind or another.

Your Committee finds that environmental issues will continue to be in the forefront for many years to come. Therefore, it is appropriate at this time to examine the feasibility of consolidating environmental programs and responsibilities into one body and to encourage greater cooperation among existing agencies. Your Committee wishes to stress that every aspect of the environment is interrelated and connected in some form or other, and that a coordinated approach involving all aspects of government and private industry, is the only feasible method for confronting, managing, and eliminating environmental problems in our State.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 78, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 925-84 Economic Development on H.C.R. No. 138

The purpose of this concurrent resolution is to request the High Technology Development Corporation to identify and analyze the major impediments to the development of high technology industries in Hawaii and to recommend a plan of action for overcoming these impediments.

In recent years it has been recognized that there is a need to expand and diversify the State's economic base while preserving and protecting its unique environment and quality of life. The high technology industry is particularly suitable for Hawaii because: (1) high technology products have a high value per weight and volume, (2) their manufacture requires few indigenous natural resources, (3) the industry is non-polluting, and (4) Hawaii has a skilled, stable technical labor force which can be augmented by former residents who have unwillingly left Hawaii to seek technical employment opportunities on the U.S. Mainland.

To achieve the goal of high-tech development, Chapter 206M, Hawaii Revised Statutes, created the High Technology Development Corporation, in part, to develop industrial parks for the location of high technology enterprises in

Hawaii and to address certain weaknesses in Hawaii's natural and social environments which impede high technology development. Your Committee finds that the Corporation should assign a high priority to the identification, analysis, and development of a plan to overcome impediments to fulfilling the objectives of the State in the high technology field.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 138, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 926-84 Human Resources on S.R. No. 123

The purpose of this resolution is to request the Department of Social Services and Housing, in consultation with the Department of Health, the Department of Transportation Services of the City and County of Honolulu, and the Commission on the Handicapped, to conduct a study on the transportation of handicapped persons to and from State-operated programs in order to develop an equitable plan by which the State would reimburse the City and County of Honolulu for transporting clients of state programs via the Handi-Van.

The Handi-Van program was initiated by the City and County of Honolulu in 1977. The cost of operation in the first year was \$106,000, and ridership was 940 per month. However, for fiscal year 1984-1985, the operating costs have skyrocketed to \$3.9 million per year and ridership has dramatically increased to 1400 riders per day.

The City and County of Honolulu provides 100 per cent of the funding for the Handi-Van program, although a high percentage of riders are clients of State programs which provide no special transportation facilities of their own. While the State realizes savings through usage of the Handi-Van program, the City and County of Honolulu is facing fiscal constraints and has been compelled to limit service to weekdays only and cannot provide evening, weekend and holiday transit services at all. Clearly, the City and County of Honolulu needs some kind of financial assistance to accommodate the great demand for this important service.

Your Committee received testimony in support of this resolution from the Office of Human Resources and the Department of Transportation Services, City and County of Honolulu, and finds that the Handi-Van is the lifeline for many individuals who do not have access to other means of private or public transportation. Rather than jeopardize the continued full operation of this worthy program, your Committee believes that it is reasonable to request the State to contribute a fair amount for service provided to its disabled clients, and that the study authorized by this resolution is appropriate and in the public interest.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 123 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 927-84 Agriculture on S.R. No. 172

The purpose of this resolution is to request the University of Hawaii College of Tropical Agriculture and Human Resources to study research areas which would lead to the development of innovative and safe pest control programs.

The agriculture industry needs to be adequately protected from crop-damaging pest infestation. However, the extensive use of chemical pesticides has been proven to have negative effects on the environment and human beings. This resolution seeks the development of pesticide-free pest control programs which incorporate recent advancements in genetic engineering, biotechnology and behavioral genetics.

Your Committee heard favorable testimony from the Board of Agriculture, the University of Hawaii College of Tropical Agriculture and Human Resources, several environmental groups and private citizens supporting the intent of this resolution. Your Committee finds that studies regarding pest control without the use of dangerous chemicals are necessary and in the best interest of the public.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 172 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 928-84 Agriculture on S.C.R. No. 137

The purpose of this concurrent resolution is to request the University of Hawaii College of Tropical Agriculture and Human Resources to study research areas which would lead to the development of innovative and safe pest control programs.

The agriculture industry needs to be adequately protected from crop-damaging pest infestation. However, the extensive use of chemical pesticides has been proven to have negative effects on the environment and human beings. This concurrent resolution seeks the development of pesticide-free pest control programs which incorporate recent advancements in genetic engineering, biotechnology and behavioral genetics.

Your Committee heard favorable testimony from the Board of Agriculture, the University of Hawaii College of Tropical Agriculture and Human Resources, several environmental groups and private citizens supporting the intent of this concurrent resolution. Your Committee finds that studies regarding pest control without the use of dangerous chemicals are necessary and in the best interest of the public.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 137 and recommends its adoption.

Signed by all members of the Committee except Senator Aki.

SCRep. 929-84 Agriculture on S.R. No. 100

The purpose of this resolution is to request the Governor's Agriculture Coordinating Committee to develop a systematic and comprehensive Action Plan relating to the promotion of Hawaii's beef which includes, but is not limited to, the analysis of optimal distribution patterns, consumer attitudes regarding locally produced beef, and marketing techniques which may be adopted.

Hawaii's beef production has remained relatively constant for the past decade, contributing approximately \$28 million annually to the State's economy, but the percentage of the total beef market supplied by the local industry has decreased steadily from fifty percent in 1973 to thirty percent in 1983. Your Committee received testimony in support of this resolution from the Governor's Agriculture Coordinating Committee, the College of Tropical Agriculture and Human Resources, University of Hawaii, the Hawaii Cattlemen's Association, and the Public Employees Management Association of Hawaii, and finds that the major factor preventing the industry from achieving its potential is the lack of background data on comparative methods of merchandising different grades of beef and for determining forms of carcass breakdown for the local market. Since the high cost of transporting cattle to mainland markets restricts the options available to Hawaii cattlemen for marketing their cattle, your Committee finds that a comprehensive Action Plan, as provided in this resolution, is the appropriate means for strengthening Hawaii's beef industry and is therefore in the public interest.

Your Committee has amended the resolution by making stylistic changes which have no substantive effect.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 100, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 100, S.D. 1.

Signed by all members of the Committee.

SCRep. 930-84 Agriculture on S.R. No. 132

The purpose of this resolution is to request the Senate Agriculture committee to monitor and, as necessary, conduct oversight hearings on the negotiations between the Luluku Banana Growers Association and Iolani School.

Currently, negotiations between the banana farmers at Luluku banana patch, (190 acres of apple banana along Likelike Highway in Kaneohe, Oahu) and their landlord Iolani School are being mediated by Senator Ajifu, Senator Toguchi, Representative Ige, Representative Nakata, Representative Tom, and Councilman Kahanu. This resolution expresses the concern of the Senate that negotiations continue and result in a mutually satisfying conclusion by requesting the Senate Agriculture Committee to monitor the negotiations.

Your Committee heard favorable testimony from the Luluku Banana Growers Association that the negotiations are proceeding very positively due in large part to the role of the mediators.

Your Committee finds that this resolution will enhance and facilitate the negotiations concerning the matters of mutual interest between the school and the growers association.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 132 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 931-84 Agriculture on S.R. No. 167

The purpose of this resolution is to urge the United States Department of Agriculture (U.S.D.A.) to intensify its genetic engineering research techniques to develop effective, economical, and safe methods of fruit fly eradication, including the use of lethal genes or male-producing factors.

Currently, several fruit fly eradication projects attempt to eradicate the flies by using aerial spraying or impregnated filter tip lures in fruit fly infested areas. However, these projects may detrimentally impact on non-target invertebrates, plants, and birds.

Your Committee heard favorable testimony from the College of Tropical Agriculture and Human Resources, University of Hawaii, supporting the intent of this resolution.

Your Committee finds that the resolution needs to be more precisely worded and has amended the resolution by:

(1) Substituting the word "an" for the words "the proposed" in the second and eighth "WHEREAS" clause.

(2) Replacing the words "can" and "will" with the word "may" in the second and third "WHEREAS" clause.

(3) Making technical, nonsubstantive changes to conform the resolution to recommended drafting format.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 167, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 167, S.D. 1.

Signed by all members of the Committee.

SCRep. 932-84 Agriculture on S.C.R. No. 132

The purpose of this concurrent resolution is to urge the United States Department of Agriculture (U.S.D.A.) to intensify its genetic engineering research techniques to develop effective, economical, and safe methods of fruit fly eradication, including the use of lethal genes or male-producing factors.

Currently, several fruit fly eradication projects attempt to eradicate the flies by using aerial spraying or impregnated filter tip lures in fruit fly infested areas. However, these projects may detrimentally impact on non-target invertebrates, plants, and birds.

Your Committee heard favorable testimony from the College of Tropical Agriculture and Human Resources, University of Hawaii, supporting the intent of this concurrent resolution.

Your Committee finds that the concurrent resolution needs to be more precisely worded and has amended the resolution by:

(1) Substituting the word "an" for the words "the proposed" in the second and eighth "WHEREAS" clause

(2) Replacing the words "can" and "will" with the word "may" in the second and third "WHEREAS" clause.

(3) Making technical, nonsubstantive changes to conform the resolution to recommended drafting format.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 132, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 132, S.D. 1.

Signed by all members of the Committee.

SCRep. 933-84 Agriculture on S.R. No. 74

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to negotiate the acquisition of the Kohala Ditch System.

The ditch system is a valuable asset and is a reliable source of water supply for agricultural development in North Kohala.

The current owner of the ditch system is the Kohala Corporation, which is receptive to discussing proposals regarding the transfer of the ditch system to a government entity.

Your Committee finds that it is the policy of the State to support agriculture, in general, and diversified crop and agriculture production in particular, and that the Kohala ditch is a reliable source of water paramount to the expansion and development of agriculture in North Kohala.

Upon consideration, your Committee has amended the resolution to conduct a feasibility study on acquisition of the Kohala Ditch, rather than to acquire the Ditch. Your Committee finds that the feasibility of acquiring the Ditch should be determined before any final decision on acquisition is made. The title of the resolution has been amended accordingly.

Your Committee has further amended the resolution by: 1) deleting the third and fifth "WHEREAS" clauses; 2) adding two new "WHEREAS" clauses explaining the need for the Kohala Ditch System and its importance to the rapidly growing North Kohala community; (3) making clarifying language changes.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 74, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 74, S.D. 1.

Signed by all members of the Committee.

SCRep. 934-84 Agriculture on S.C.R. No. 12

The purpose of this concurrent resolution is to request the establishment of a joint interim committee to oversee the progress of the State of Hawaii Land Evaluation and Site Assessment Commission during the 1984 interim period.

Act 273, Session Laws of Hawaii 1983, which created the State of Hawaii Land Evaluation and Site Assessment Commission (Commission) required the Commission to submit a report prior to the convening of the 1984 Regular Session of the Legislature regarding 1) an evaluation of alternative agricultural production goals for the State; 2) recommended goals relating to agricultural production; 3) a recommended process for identifying important agricultural lands; and 4) proposed legislation to adopt a land classification system. However, the report could not be prepared for timely submission due to a delay in establishment of the Commission.

Your Committee received favorable testimony on S.C.R. No. 12 from the Chairman of the Commission. Your Committee finds that the Commission's

preliminary findings and recommendations are expected to be completed in July, 1984, and that the opportunity to discuss such findings and conclusions with a legislative joint interim committee, as proposed by S.C.R. No. 12, will promote the successful completion of the Commission's work in accordance with constitutional and legislative mandate.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 12 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 935-84 Agriculture on S.C.R. No. 67

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to negotiate the acquisition of the Kohala Ditch System.

The ditch system is a valuable asset and is a reliable source of water supply for agricultural development in North Kohala.

The current owner of the ditch system is the Kohala Corporation, which is receptive to discussing proposals regarding the transfer of the ditch system to a government entity.

Your Committee finds that it is the policy of the State to support agriculture, in general, and diversified crop and agriculture production in particular, and that the Kohala ditch is a reliable source of water paramount to the expansion and development of agriculture in North Kohala.

Upon consideration, your Committee has amended the concurrent resolution to conduct a feasibility study on acquisition of the Kohala Ditch, rather than to acquire the Ditch. Your Committee finds that the feasibility of acquiring the Ditch should be determined before any final decision on acquisition is made. The title of the concurrent resolution has been amended accordingly.

Your Committee has further amended the concurrent resolution by: 1) deleting the third and fifth "WHEREAS" clauses; 2) adding two new "WHEREAS" clauses explaining the need for the Kohala Ditch System and its importance to the rapidly growing North Kohala community; (3) making clarifying language changes.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 67, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 67, S.D. 1.

Signed by all members of the Committee.

SCRep. 936-84 Agriculture on S.R. No. 99

The purpose of this resolution is to request the Governor's Agriculture Coordinating Committee (GACC) to develop a comprehensive Crop Protection Action Plan.

Currently, there is no comprehensive action plan to cover all the components of the various agricultural production systems in the State. This resolution requests such a plan to be developed by the Governor's Agriculture Coordinating Committee.

Your Committee heard favorable testimony from the GACC, the University of Hawaii and the Hawaiian Sugar Planters' Association supporting the intent of this resolution.

Your Committee finds that the proposed action plan is a positive step in dealing with real and potential agrichemical environmental interactions. Your Committee further finds that the use of the GACC as the coordinating committee, together with other state agencies involved with agricultural production systems, is a logical, efficient and economical means of accomplishing the proposed plan.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 99 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 937-84 Education on S.R. No. 133

The purpose of this resolution is to request the Board of Education to encourage the Department of Education to promote Hawaiian Studies Programs in our public schools.

The provision of quality educational services to the children of our State entails the development of a complete and comprehensive Hawaiian Studies Program. Such a program will preserve the unique Hawaiian culture and tradition which is an important part of the heritage of this State and responds to the renewed interest of our youth in the history, traditions and culture of the Hawaiian people. Your Committee finds that S.R. No. 133 is an important step in assuring that the Hawaiian Studies Program in our public schools is both meaningful and creative. However, in order to further strengthen and promote the intent of this resolution, your Committee has amended the resolution by:

1. Deleting the sixth "WHEREAS" clause and adding three new "WHEREAS" clause which sets forth (a) the importance of a comprehensive Hawaiian Studies Program which includes program areas such as Hawaiian history, literature, sociology and language; and (b) the necessity of the Department of Education (DOE) utilizing and consulting with community organizations, resource personnel and experts in developing its Hawaiian Studies Program.

2. Clarifying the "BE IT RESOLVED" clause to provide that the DOE Hawaiian Studies Program should be "complete and comprehensive".

3. Adding three new "BE IT FURTHER RESOLVED" clause which request the DOE to: (a) utilize and consult with experts, resource personnel and community organizations in formulating its Hawaiian Studies Program; (b) conduct a study regarding the present status of the DOE Hawaiian Studies Program and make findings and recommendations regarding steps being taken by the DOE to develop a Hawaiian Studies Program which incorporates a broad spectrum of curricula, course structures and teaching techniques; and (c) report its findings and recommendations of the requested study to the Senate twenty days prior to the convening of the Thirteenth Legislature, Regular Session of 1985.

4. Amending the title of the resolution to reflect the request for a study by the DOE.

5. Amending language of the sixth "WHEREAS" clause of the amended resolution for the purpose of clarity and style.

Your Committee finds that S.R. No. 133, as amended, will insure that the children of our State are provided with the meaningful Hawaiian Studies Program contemplated by Article X, Section 4, of the State Constitution.

Your Committee on Education concurs with the intent and purpose of S.R. No. 133, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 133, S.D. 1.

Signed by all members of the Committee.

SCRep. 938-84 (Majority) Housing and Urban Development on H.C.R. No.

50

The purpose of this concurrent resolution is to request the Legislative Auditor to determine if utilization of the public authority device can improve the processes by which the Department of Hawaiian Home Lands serves its native Hawaiian beneficiaries.

The proposed study will implement the recommendation of the Federal-State Task Force on the Hawaiian Homes Commission Act which noted in its report that the Department of Hawaiian Home Lands is constrained in carrying out its responsibilities, particularly in the areas of generating revenues, investing income, and hiring adequate personnel. It has been found that the creation of "public authorities" such as the Hawaii Housing Authority, the Hawaii Community Development Authority, and the Aloha Tower Development Corporation has been used to overcome problems of similar difficulty. Your

Committee is of the opinion that a study by the Legislative Auditor of the public authority device for the department is highly desirable.

Your Committee on Housing and Urban Development concurs with the intent and purpose of H.C.R. No. 50, H.D. 1, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 939-84 (Joint) Higher Education and Health on S.R. No. 91

The purpose of this resolution is to request the Legislative Auditor to perform an audit of the Cancer Center of Hawaii.

The Cancer Center of Hawaii is a research institute of the University of Hawaii and was established in 1971. The institute does cancer investigation and research and makes available to the community all resources of its research expertise for the general improvement of care for cancer patients. The institute also engages in the assimilation, analyses and dissemination of cancer data and cancer education in the community.

The State of Hawaii and the Federal government are the primary sources of funding and support for the institute. Your Committees note that it is the obligation of the Legislature to assure proper application of all public funds and therefore, an audit to determine the propriety of expenditures and accounting of funds and to determine the extent of management and operational efficiency is appropriate.

Your Committees heard favorable testimony from the University of Hawaii stating that the University will cooperate fully with the audit.

Based on new information your Committees have received subsequent to the hearing of S.R. No. 91, this resolution has been amended by:

1. Adding two "WHEREAS" clauses after the sixth "WHEREAS" clause to acknowledge the existing relationships between the University of Hawaii and the Defense Contract Audit team, permanently based on the Manoa Campus; and the scheduled examination of the Cancer Center operations during the month of June, 1984.

2. Adding two "BE IT FURTHER RESOLVED" clauses after the first "BE IT RESOLVED" clause to clarify that the Legislative Auditor perform the audit only upon the consent and approval of the National Cancer Institute, in cooperation with the Defense Contract Audit Agency; and that the Legislative Auditor consider the findings and recommendations of the 1984 Cancer Center Support Review Committee on the Cancer Center.

3. Amending the last "BE IT FURTHER RESOLVED" clause to include that certified copies of this resolution be transmitted to the National Cancer Institute, the Defense Contract Agency, the Department of Accounting and General Services, and the Department of Budget and Finance.

Your Committee finds that these amendments are necessary to clarify the purpose and role of all parties involved in order to better accomplish the objectives of the Cancer Center of Hawaii.

Your Committees on Higher Education and Health concur with the intent and purpose of S.R. No. 91, as amended herein, and recommend that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 91, S.D. 1

Signed by all members of the Committees except Senators Fernandes Salling, Abercrombie, Carpenter, Toguchi, Uwaine and Ajifu.

SCRep. 940-84 (Joint) Higher Education and Health on S.C.R. No. 81

The purpose of this concurrent resolution is to request the Legislative Auditor to perform an audit of the Cancer Center of Hawaii.

The Cancer Center of Hawaii is a research institute of the University of

Hawaii and was established in 1971. The institute does cancer investigation and research and makes available to the community all resources of its research expertise for the general improvement of care for cancer patients. The institute also engages in the assimilation, analyses and dissemination of cancer data and cancer education in the community.

The State of Hawaii and the Federal government are the primary sources of funding and support for the institute. Your Committees note that it is the obligation of the Legislature to assure proper application of all public funds and therefore, an audit to determine the propriety of expenditures and accounting of funds and to determine the extent of management and operational efficiency is appropriate.

Your Committees heard favorable testimony from the University of Hawaii stating that the University will cooperate fully with the audit.

Based on new information your Committees have received subsequent to the hearing of S.R. No. 91, this concurrent resolution has been amended by:

1. Adding two "WHEREAS" clauses after the sixth "WHEREAS" clause to acknowledge the existing relationships between the University of Hawaii and the Defense Contract Audit team, permanently based on the Manoa Campus; and the scheduled examination of the Cancer Center operations during the month of June, 1984.

2. Adding two "BE IT FURTHER RESOLVED" clauses after the first "BE IT RESOLVED" clause to clarify that the Legislative Auditor perform the audit only upon the consent and approval of the National Cancer Institute, in cooperation with the Defense Contract Audit Agency; and that the Legislative Auditor consider the findings and recommendations of the 1984 Cancer Center Support Review Committee on the Cancer Center.

3. Amending the last "BE IT FURTHER RESOLVED" clause to include that certified copies of this concurrent resolution be transmitted to the National Cancer Institute, the Defense Contract Audit Agency, the Department of Accounting and General Services, and the Department of Budget and Finance.

Your Committees find that these amendments are necessary to clarify the purpose and role of all parties involved in order to better accomplish the objectives of the Cancer Center of Hawaii.

Your Committees on Higher Education and Health concur with the intent and purpose of S.C.R. No. 81, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 81, S.D. 1.

Signed by all members of the Committees except Senators Fernandes Salling, Abercrombie, Carpenter, Toguchi, Uwayne and Ajifu.

SCRep. 941-84 Legislative Management on H.C.R. No. 78

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study the feasibility of establishing a State Environmental Protection Agency, or similar body, to coordinate and address matters of environmental quality.

Your Committee is in agreement with the findings and recommendations on this measure made in Standing Committee Report No. 924-84 from the Committee on Economic Development.

Your Committee concurs with the intent and purpose of H.C.R. No. 78 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 942-84 Legislative Management on S.R. No. 17

The purpose of this resolution is to request the Legislative Auditor to conduct a financial and management audit of the State Foundation on Culture and the Arts.

Your Committee concurs with the findings and recommendations of the Senate

Committee on Education expressed in Standing Committee Report No. 690-84 which recommended referral of the resolution to this Committee.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 17 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 943-84 Legislative Management on S.R. No. 86

The purpose of this resolution is to request lessors of the State to place a moratorium on all lease rent increases until June 30, 1985, except for renegotiations required for financing purposes, and to request an interim committee of the Senate Committee on Housing and Urban Development be appointed by the President of the Senate to conduct a study on lease rent renegotiations and the U.S. Supreme Court decision on the Hawaii Land Reform Act.

Your Committee concurs with the findings and recommendations of the Senate Committee on Housing and Urban Development expressed in Standing Committee Report No. 741-84, which recommends referral of the resolution to this Committee.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 86, S.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 944-84 Legislative Management on S.R. No. 117

The purpose of this resolution is 1) to encourage all victim and witness assistance programs and services to improve their relationships and coordinate their efforts and resources, and 2) to request the Legislative Reference Bureau to expand its current study of victim-witness legislation to include a comparison study of this state's and other states' victim compensation laws.

Your Committee concurs with the findings and recommendations of your Committee on Judiciary expressed in Standing Committee Report No. 777-84, which recommends referral of the resolution to this Committee.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 117 and recommends its adoption.

Signed by all members of the Committee.